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SENATE JUDICIARY COMMITTEE

MINUTES

April 7, 1971

Chairman Monroe called the meeting to order at 8:45 a.m.

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

Absent : Senator Swobe

Others Present: Grant Davis - Legislative Counsel Bureau
Mr. George Bennett - Nevada State Board
of Pharmacy
Mr. George Gross - Nevada State Board
of Pharmacy
Mr. Robert Tucker - Nevada State Board
of Pharmacy
Stan Warren - Bell of Nevada
Mr. Ted Embrey - Bail Bondsman
Assemblyman Leslie Mac Fry
Assemblyman Tom Kean

A.B. #107 - Enacts Uniform Controlled Substances Act.

Grant Davis testified that this bill was brought about because of the Federal model act which came out in January. His office was directed to take that act and put it into NRS keeping the same penalties as we have at the present time. The first 70 sections are the model act, Sections 71 through 87 are other provisions in our law that were not contained in the model act.

The way it will work is that the Board of Pharmacy is the administering agency. They will determine what drugs should be listed within the five different schedules. The Division of Narcotics and Dangerous Drugs, which by this act was transferred from the Parole and Probation Department to the Crime Commission, will be the enforcement agency. They have 5 or 6 agents and are authorized by statute to work in cooperation with any other law enforcement agency.

The Assembly amended this bill with regard to the penalty for marihuana possession. That penalty for a person under 18 would be revocation of his drivers license. In the original bill it was a felony.

Mr. George Bennett, Inspector for the State Board of Pharmacy, testified that this bill would rewrite all the dangerous drug laws into one neat package.

He felt this bill would encourage cooperation between the federal bureau of narcotics and the local law enforcement agencies, and make the exchange of information much easier. He stated that 11 states have passed this same legislation and several other states are considering passage.

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Mr. George Gross testified that the State of Nevada through the Board of Pharmacy entered into a memorandum of understanding with the federal government through the Bureau of Narcotics and Dangerous Drugs. That memorandum defined the prospective spheres of primary responsibility for drug control as between the State Board of Pharmacy and the federal government. This bill would facilitate the operation of that memorandum of understanding and stimulate communication between the two levels of government. It also helps because the federal act will provide for federal registration of all pharmacies as distinguished from pharmacists.

Senator Close noted that there was no provision in the bill for a second offense of marihuana possession. He also pointed out that on Page 23, Subsection 4 of Section 65 allows any person who has not been previously convicted of an offense relating to narcotics or dangerous drugs to plead guilty to possession and the court may, without entering a judgement, stop proceedings, and put that person on probation. The matter is dismissed, and the guilty plea is wiped out as though he were never convicted. Senator Close felt that since the first offense would be "free" the second offense should carry a more severe penalty. Senator Dodge pointed out that in that case the second offense would become the first offense. He felt the bill should be amended to provide that the first offense be a gross misdemeanor and the second offense a felony. Senator Wilson felt the judge should have the latitude to make the sentencing decision.

Mr. Bob Tucker representing the State Board of Pharmacy testified that marihuana was just as dangerous as the other drugs and should not be set apart. He felt if the penalty was lowered, the legislature would be implying that they condone its use. Senator Dodge explained that the legislature had to be realistic in drafting criminal sanctions. They have to be realistic about what the morase of the society is, and to what extent these people are criminals in light of its prevalent use.

Grant Davis will draft an amendment to change the charge to a gross misdemeanor on the first offense with the court having the discretion to set the penalty, and a felony on the second offense.

A.B. #475 - Removes anonymity as element of offense and requires telephone companies to assist in tracing obscene and threatening phone calls.

Stan Warren of Nevada Bell testified on this bill. He said they had previously suggested two amendments which were included by the Assembly, but had one more which was not ready when the others were included. This amendment would protect them in certain areas where they might not have the equipment for tracing, or where the call goes through a common trunk route and is impossible to trace.

Senator Close felt that in Line 20 on Page 1 rather than "peace officer" it should be spelled out who this assistance shall be provided for. Mr. Warren stated that his intent was to include the F.B.I. and, in case of the

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absence of the chief of police, the officer next in line. Grant Davis said he could draft some language that would spell out the persons or their deputies this would apply to.

Senator Close also felt that Line 2 on Page 2, "threat to inflict injury to the person or property of the person addressed", should not be limited to the person addressed but should include other members of his family. Senator Foley suggested using the language in 201.255, "threat to inflict injury to the person or property of the person addressed or any member of his family."

Senator Foley asked if there would be any way of getting access to these records resulting from obscene phone calls. Mr. Warren stated that they are privileged records and no one can see them without a court order.

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

A.B. #688 - Requires junk and secondhand dealers to use due diligence in purchase of anything ordinarily belonging to a public utility.

Stan Warren testified that acts of vandalism and wire theft are their biggest problem. He said that there was 42,189 pounds of wire stolen last year, at a cost to the telephone company of \$51,000. All this bill would do is make it a little harder for the thief to get rid of this stolen property.

Senator Close pointed out that the penalty in the bill was not realistic. There is no such sentence as 1 to 5 in the law. A gross misdemeanor would carry a penalty of 1 to 6, and a \$1,000 fine. The committee agreed that this bill should be conformed to present sentencing structure.

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

A.B. #356 - Extends bail forfeiture deadline and provides for exoneration and termination of obligations of sureties.
Committee on Judiciary.

Ted Embrey testified that presently the bail bondsman has 30 days which to return a bail skip. Experience has shown the time provided is impractical. With the growing population, it takes more time to ascertain the bail jumpers whereabouts. He said that with the 30 day period people have been able to avoid recapture and not even leave the city limits. Once the 30 days is up, the bondsman has to pay the premium amount of the bond. Once they pay that, all further efforts to effect a recapture are done away with. If the bondsman doesn't pay the premium, he is sent to jail. If a bondsman does recapture the bond jumper and brings him back to court after 30 days, he can not get his money back. Mr. Embrey pointed out that if a defendant skips bail and flees to California, the bondsman has to go through the court in California to bring him back, and that usually takes more than 30 days.

Mr. Embrey stated that at the present time the law does not provide for extensions of time in the event of temporary illness or detention by federal or military authority. 2-100

Senator Dodge wondered if by permitting extensions, will we have the courts clogged with requests for extensions which may or may not be valid. Senator Wilson felt that there would be times when the court would want to grant an extension rather than exonerate. Chairman Monroe felt the language was satisfactory to allow the discretion of the court.

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

A.B. #124 - Increases rights of limited partners and excludes limited partnerships from filing certificate of assumed or fictitious name.
Assemblyman Fry.

Assemblyman Leslie Mac Fry testified on this bill. He stated that it was introduced at the request of two attorneys in Reno who have run into problems on limited partnership. This bill would give a limited partner some rights to come in when general partner is not performing properly in order to protect their interest. Senator Close objected that if the general partner were to be removed, he would no longer have an interest in the partnership. He said you can't have a general partner who is not liable, and the general partner could not become a limited partner in that instance.

Assemblyman Fry will ask Mr. Farenkoff to testify on this bill.

A.B. #180 - Eliminates use of quo warranto action for public offices of assemblyman and state senator.
Committee on Judiciary.

Assemblyman Fry testified that this bill would eliminate the courts from reviewing the action in the Senate and Assembly to determine who should or should not sit there.

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

A.B. #200 - Prohibits deficiency judgments on purchase money obligations and provides cause of action for waste.
Committee on Commerce.

Assemblyman Fry testified that the thrust of this bill is to exclude deficiency judgement from purchase money mortgages. He said the language was added to make deficiency judgement only for the vendor so that the lending companies and savings and loan institutions were taken out of the picture. Senator Foley objected to the bill and felt that it could be abused by promoters.

The committee will ask Assemblyman Lingenfelter to testify on this bill.

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A.B. #214 - Enacts The Agreement on Detainers.

Assemblyman Fry testified that this bill was requested by the district attorneys and the Attorney General. It is a uniform act which has been enacted in several states, and other states are acting on it now.

In a situation where a person is charged with a crime and is out on bail, then is put in jail in another state, it would allow for a speedy trial. He said that the cost is in the Attorney General's budget.

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

A.B. #302 - Restricts withdrawal of defense counsel.

Assemblyman Fry testified that this bill was requested by the district attorney's office. In Clark and Washoe they have had trouble with defendants who at the last minute decide they don't like their attorneys who have been working with them for several months just to get a continuance and delay the trial. This would give the court the authority to deny that request and get the trial moving along. Senator Wilson asked if they have that power now. Assemblyman Fry answered that they do, but this would give them statutory back up.

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

A.B. #390 - Increases fees for court reporters.

Assemblyman Fry testified that this bill was requested by the court reporters. The last raise they received was in 1967, and if they don't get one this session, it will be 1973 before they would receive another one. He also stated that the legislature gave everybody else a raise, and the court reporters should receive one too.

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

A.B. #466 - Allows certain claims or suits against special administrator of estate of deceased person.

Assemblyman Fry testified that this bill would permit suits against special administrators without making him go through estate proceedings.

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

A.B. #593 - Provides for investment of moneys deposited in court.

Assemblyman Fry testified that there is approximately \$4,000,000 hanging around the court house. This would allow the county clerk to invest those funds and make some money for the county. Assemblyman Kean testified that he has investigated this, and the investigation showed that the funds didn't vary, it was a fairly constant sum in the neighborhood of \$4,000,000.

Senator Foley asked if the county clerk is qualified to be an investor. Grant Davis stated that he presently invests reserve funds and bond monies.

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


A.B. #641 - Makes misrepresentation of fact to
Legislature a misdemeanor.

Assemblyman Fry testified that the introducers requested this bill because they were disturbed by people stating bold-faced lies when testifying before a committee.

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

Meeting adjourned at 10:55 a.m.

Respectfully submitted,



Eileen Wynkoop, Secretary

Approved: _____