

ASSEMBLY JUDICIARY COMMITTEE  
58th NEVADA ASSEMBLY SESSION

MINUTES

May 14, 1975

This meeting of the Assembly Judiciary Committee was called to order on Wednesday, May 14, 1975 by Chairman Robert R. Barengo.

MEMBERS PRESENT: BARENGO, BANNER, HAYES, HEANEY,  
HICKEY, LOWMAN, POLISH, SENA &  
WAGNER.

MEMBERS ABSENT: NONE.

Mr. Banner and Mrs. Hayes were excused from this meeting to attend and testify before other Committee meetings. Mrs. Hayes returned before the end of this meeting.

A Guest Register is attached hereto, which indicates that William Swackhamer, Secretary of State, Abner Sewell, from the Secretary of State's Office, W. K. Stephan, M.D., State Medical Association, Warden Pogue, Nevada State Prison, Don Klasic, Deputy Attorney General, and Robert List, Attorney General, were in attendance at this meeting.

Attorney General Robert List testified on S.B.173. He passed out copies of this bill, as this Committee did not have it in the Bill Books at this time, as well as a copy of a proposed amendment to the bill. The proposed amendment is attached hereto. This bill is one that they feel a necessity for because of the experiences they have had during the past four years. At the present time the federal antitrust laws cover everybody who lives and operates any place of business in this country. They have had a lot of cases in which they had to recover damages where the federal government had obtained convictions. This bill enables the state to proceed with civil actions to recover monies which were overcharged. During the past years they have recovered about \$400,000-, most of which has gone to schools, hospitals and the like. The federal law is not strongly enforced unless there are vast sums of money involved. There are only 16 lawyers in the Justice Department for the western states to enforce this law. 43 states have adopted their own anti-trust laws. In Mr. List's judgment, there will be 2 primary beneficiaries--the first being the honest businessman who is a victim of unfair business practices, and the second being the consumers. Mr. List gave examples of the various case situations. He referred to public contracts. They have had examples of virtually every type of offense which is listed in the bill. There was extensive testimony given when it was in the Senate Committee. Mr. List said

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is in the Criminal Division of the AG's Office and counsel for the State Board of Pharmacy. The provisions of S.B.586 constitute a revision to the Uniform Controlled Substances Act. The purpose in Sections 2 through 5 is to add statutorily those changes which have been added administratively. In such possession and sale cases, the judge finds it is hard to hold a person. Many prosecutors will not file cases, knowing that they are going to be "dumped" by the justices of the peace--mainly because he does not know the law. In December, 1974, the Attorney General's Office sponsored a law enforcement conference for the purpose of considering legislation to be introduced this session. Mr. Groves passed out minutes of that conference to allow this Committee to see the broad representation of those in attendance. A copy is attached to these Minutes. On the page numbered 16 of these minutes, it was represented that the State Board of Pharmacy would sponsor this particular legislation which is now before this Committee, and all voted in favor of the request. There are several other housekeeping measures in the bill, and Mr. Groves commented briefly on them. He then explained in detail Sections 1, 6, 7 and 8. This Committee questioned Mr. Bennett and Mr. Groves.

Warden Pogue, Nevada State Prison, commented on S.B.550 regarding changes which would affect the Nevada State Prison. He explained the bill to the Committee. The present form of the bill is a standardized form, and about 38 states have adopted this type of legislation. The Prison's authority to transfer prisoners anywhere in the United States is expanded. He was questioned by the Committee. This bill was cut to the basic framework of what the Prison would need for the next 2 years, because the Senate explained that due to the lateness of the session, there would not be adequate time to consider all the revisions needed by the Prison.

After a question from Mr. Hickey, Mr. Pogue said that approximately 46% of the prison population was from out of state and consisted of non-residents. However, this number is decreasing and we have, and will have in the future, more of our own prisoners. He gave examples to this Committee of the various reasons for transferring prisoners out of the prison. He was questioned by the Committee. As to furloughs for the prisoners, they would evaluate each individual situation and then make a decision.

William K. Stephan, M. D., representing the State Medical Association, spoke on A.B.569. He referred to the S.B.400-Package--the medical malpractice bills, and explained to the Committee that the doctors felt that this package would solve the availability problem in the state, and then they would have another two years to try to work out the problem. However, another situation presented itself since the passage of the package, and he was present here today to address himself to that problem. During the last week ISO (Insurance Services Organization), a committee on health and medical practice related to professional liability, came out with new recommendations. Dr. Stephan said he did not think that most of the physicians were aware of the situation yet, but when that happened, a lot might still decide to go to another state to

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that this bill is supported by the Consumers League of Nevada, Nevada Taxpayers Association, Citizens for Private Enterprise and Nevada Retail Association. Both businessmen and consumers favor the bill. This is, perhaps, their most important bill and they are very concerned about getting it passed. He referred to an amendment and discussed it at this time. See attached. This Committee questioned Mr. List at this point.

Mr. List said that in the Senate there was no one to testify against passage of S.B.173 or against the concept. Senator Hilbrecht voted against the passage of this bill because, Mr. List feels, that the Senator felt there would be too much work and procedures involved for the Attorney General's Office. The money the state will recover from this will far exceed the work and time spent. Most of the people who have violated this have been firms coming into Nevada from out of state. This law does not make anything illegal that is not already illegal under federal law. They are just giving the state the right to go in and handle the cases, and they are giving the state the right to go in and recover the money which was over-charged.

Chairman Barengo questioned Page 2, Section 5 of S.B.173, and Deputy Attorney General Don Klasic responded. He explained this section to the Committee and gave an example of how this situation would apply to an actual situation. This affects agreements between companies, which otherwise, generally, would be competing. Mr. Klasic explained the theory of "conscious parallelism" as regards competition between companies. This bill guarantees that there will be an open, competitive market. Labor organizations are exempt under Section 8, as this is the case with the federal law. They tried not to conflict with the federal law.

Mr. List then referred to Section 29 of the bill, which is found on Page 8. This is one of the most important provisions of this act, which, in effect, adopts the federal case law concerning the federal statutes. Mr. List explained, further, the various amendments which were added in the Senate. He passed out to the members of this Committee copies of testimony which was heard by the Senate.

Mrs. Wagner was excused from the meeting during the testimony on S.B.173 to testify at another Committee meeting.

Mr. Swackhamer appeared to testify on S.B.375 and S.B.417. Mr. Barengo explained that these bills were acted upon by this Committee May 9, and the provisions of S.B.375 were to be incorporated into S.B.417. Mr. Swackhamer questioned the status of A.B.447, and Mr. Barengo explained that it has been admended and passed out of the Committee on May 13, 1975.

Mr. George Bennett, Secretary, State of Nevada Board of Pharmacy, testified on S.B.586. Deputy Attorney General Bob Groves was present with Mr. Bennett. They passed out a copy of Regulations to this Committee, which is attached to these Minutes. Bob Groves,

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practice medicine. ISO said that the new recommendations include a 49.2% increase in insurance rates in Nevada on top of the rates which the Legislature already considered. They recommend that the Commissioner approve a 40% across the board increase. Dr. Stephan said he does not want to see a situation such as California is experiencing develop here in Nevada. He has no place to go to try to negotiate for the whole state if a large number of doctors in Nevada walk out over the unnecessary and unrealistic increase in malpractice fees. Many hospitals are hanging on by a thin margin. Its costs \$80,000- per day for Sunrise Hospital to open its doors. Some physicians indicated to Dr. Stephan that if the situation gets much worse, they will leave the state, and others indicated that they will just retire early on what they have. And, some have indicated that they will continue to practice medicine without insurance. This, Dr. Stephan feels, is a very bad decision. He feels that doctors have a moral obligation to protect themselves. For every doctor who decides to practice without insurance, 1,000 Nevadans who go into their offices will not have the benefit of the doctors' protective insurance. If there is a walk-out, there will be a demand by the public for a remedy to the problem.

Dr. Stephan would like to suggest that the Legislature recognize the comments of Imperial Insurance Company in regards to the California situation. They indicated that rates would decrease if certain conditions were met. Dr. Stephan proceeded to detail these circumstances for the Committee. He cited some circumstances which referred to payments to handicapped and disabled persons. He said he was trying to salvage medical professional liability insurance for the general population, as the situation is arriving very quickly where where the protection will not be available. The ISO recommendations for California were quite different for California than for Nevada. Dr. Stephan said that if the insurance companies will commit themselves to a lower rate in California, they will in Nevada. He discussed in more detail the ISO rating procedures.

Next to testify was Doug Hacket, Clark County Medical Society. He commented on the Nevada Industrial Commission's repayment system.

Dr. Stephan interjected that federal solutions are coming down the road.

As to A.B.569, Dr. Stephan said he would be willing to take out the language on Page 2, Section 3. This could apply to Section 2 (Lines 24 & 25) because this is covered in another bill. Mr. Hickey questioned what the federal government is doing about the problem. Dr. Stephan replied that the Hastings Bill was recently introduced in the House, HR6100, and that this a more reasonable approach to the problem. He said that the Secretary of Health, Education and Welfare believes that this is a state-by-state problem and should be solved at a local level.

Mr. Lowman commented that he would like to see Dr. Stephan and Dick Rotmann get together to work out something acceptable to both.

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Dr. Stephan said he would get in touch with Mr. Rotmann and report back to this Committee as soon as possible.

Mrs. Wagner moved DO PASS S.B.550, and Mr. Sena seconded. 7 voted "aye" and two were absent--Hayes and Banner. Form attached.  
MOTION CARRIED DO PASS S.B.550.

Mr. Polish moved DO PASS S.B.173, and Mr. Hickey seconded. 7 voted in favor of this motion and 2 were absent--Hayes and Banner. Form attached.  
MOTION CARRIED DO PASS S.B.173.

Mr. Heaney moved to rescind the action taken previously on S.B.586, and Mr. Hickey seconded. 7 voted in favor of the motion. Discussion was had by the Committee and then Mr. Heaney moved DO PASS S.B.586, with Mr. Hickey seconding his motion. 5 voted in favor of passage of this bill. 4 were absent--Hayes, Banner, Sena and Wagner. Form attached.  
MOTION CARRIED DO PASS S.B.586.

There being no further business before the Committee at this time, and after an appropriate motion and second, Mr. Barengo adjourned the meeting at 10:40 a.m.



~~ASSEMBLY~~ SENATE AMENDMENT BLANK

Amendments to ~~Assembly~~ Senate

Bill /~~Joint Resolution~~ No. 173 (BDR 52-429)

Proposed by Committee on Judiciary

**THIRD READING**

Amendment N<sup>o</sup> 8036A



Amend sec. 14, page 5, line 14, after "general" insert:  
"or a civil litigant".

1098

other than mental illness as provided in NRS 639.211 and not constituting an involuntary closure as provided in paragraph 1(a), a board member or board inspector shall forthwith take custody of all controlled substances and legend drugs owned, controlled or on the premises of such licensee and thereupon proceed in the manner provided in paragraph 1 of this regulation.

(c) In the event of a pharmacy closure as described in paragraph 2(a) or (b) of this regulation, the board shall make such arrangement as it deems appropriate or necessary to secure adequate and continued security of all controlled substances, legend drugs, chemicals and poisons owned, controlled, or on the premises of such pharmacy.

3. The licensee shall cooperate with the board to promote the efficient administration of this regulation.

4. This regulation shall become effective September 15, 1971.

Regulation No. 6.00 is hereby amended to read as follows:

**SCHEDULING AND  
RESCHEDULING OF SUBSTANCES**

**REGULATION NO. 6.00**

Pursuant to the provisions of NRS 453.146, subsection 5:

1. The substance Propiram is hereby added to Schedule I (NRS 453.161, subsection 2).

2. The substance Drotebanol is hereby added to Schedule I (NRS 453.161, subsection 3).

3. The following substances are hereby added to Schedule I (NRS 453.161, subsection 4).

- (a) 2.5 dimethoxyamphetamine. Some trade or other names: 2.5-dimethoxy-amethyl-phenethylamine, 2.5-DMA.
- (b) 4-bromo-2.5-dimethoxyamphetamine. Some trade or other names: 4-bromo-2.5-dimethoxy-a-methylphenethylamine; 4-bromo-2.5-DMA.
- (c) 4-methoxyamphetamine. Some trade or other names: 4-methoxy-amethyl-phenethylamine; paramethoxyamphetamine; PMA.

4. The substance Etorphine Hydrochloride is hereby deleted from Schedule I (NRS 453.161, subsection 3[i]) and placed in Schedule II (NRS 453.171, subsection 3).

5. The following substances are hereby deleted from Schedule III (NRS 453.181) and placed in Schedule II (NRS 453.171):

- (a) Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:
  - (i) Amphetamine, its salts, optical isomers, and salts of optical isomers;
  - (ii) Phenmetrazine and its salts;
  - (iii) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers; or

6. The following substances are hereby added to Schedule II (NRS 453.171):

SR ~~586~~ 586

- (a) Amobarbital;
- (b) Secobarbital;
- (c) Pentobarbital.

7. The following substances are hereby added to Schedule III (NRS 453.181):

- (a) Those compounds, mixtures or preparations in dosage unit form containing any quantities of amphetamines (and its salts, optical isomers or salts of isomers) or methamphetamine (or its salts, isomers or salts of its isomers) and which contain any stimulant substances, which compounds, mixtures or preparations were heretofore listed as excepted compounds under 21 CFR 308.32, and any other drug of the quantitative composition which is the excepted compound except that it contains the lesser quantities of controlled substances.
- (b) Benzphetamine.
- (c) Chlorphentermine.
- (d) Clortermine.
- (e) Mazindol.
- (f) Phendimetrazine.
- (g) Except as provided in subpart (i) of this section, any compound, mixture or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.
- (h) Except as provided in subpart (i) of this section, any suppository dosage form containing amobarbital, secobarbital, pentobarbital or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.
- (i) The excepted compounds enumerated in 21 CFR, subsection 308.32 as revised April 1, 1973, are hereby excepted from the provisions of sub-parts (g) and (h) of this section.

8. The following substances are hereby added to Schedule IV\* (NRS 453.191):

Any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible:

- (a) Fenfluramine.
- (b) Diethylpropion.
- (c) Phentermine.

\*Designated Schedule III in 1973 Statutes of Nevada, Chapter 741.

**REQUIREMENTS OF REGISTRATION**

**Regulation No. 7.00**

Every person who manufactures, distributes, or dispenses any controlled substance, or who conducts research or scientific investigation with any controlled substance, or who proposes to engage in such activities, shall obtain annually a registration from the Board. Persons exempted from registration by federal or state laws or regulations are exempted from registration hereunder. The burden of establishing entitlement to an exemption shall be upon the person claiming it.



*Bob Hunter*

## MINUTES OF LAW ENFORCEMENT CONFERENCE

December 20, 1974

A conference of members of the Attorney General's Office and Nevada law enforcement and criminal justice officials was held on December 20, 1974, in the Highway Department Auditorium, Room 314, Carson City, Nevada, for the purpose of considering proposed criminal legislation for enactment by the 1975 Nevada Legislature.

Those attending were as follows:

*over*

ROBERT LIST  
JAMES H. THOMPSON  
ROBERT A. GROVES

PATRICK B. WALSH

BRUCE GREENHALGH

HOWARD McKIBBEN  
ROBERT MANLEY  
LARRY BETTIS

ROBERT DEL CARLO  
GEORGE W. ALLEN  
GEORGE E. SCHWIN  
BERNARD W. CURTIS  
JERRY MAPLE  
NORMAN SAFERITE  
JAY HUGHES

RUSS SCHOOLEY

GEORGE RINGENER

WILLIAM WITTE  
S. BARTON JACKA  
FRANK BETTER  
KEN PULVER  
NORRIS R. HINTON

JAMES L. LAMBERT  
BERNARD DEHL

Attorney General  
Chief Deputy Attorney General  
Chief Criminal Deputy Attorney  
General  
Deputy Attorney General, Criminal  
Division  
Chief Investigator

District Attorney, Douglas County  
District Attorney, Elko County  
District Attorney Elect, Mineral  
County

Sheriff, Storey County  
Sheriff, Lyon County  
Sheriff, Lander County  
Douglas County Sheriff's Office  
Douglas County Sheriff's Office  
Douglas County Sheriff's Office  
Chief Deputy, Washoe County  
Sheriff's Office  
Chief Deputy, Washoe County  
Sheriff's Office  
Captain, Washoe County Sheriff's  
Office

Deputy Chief, Las Vegas Metro  
Assistant Sheriff, Las Vegas Metro  
Captain, Reno Police Department  
Captain, Reno Police Department  
Yerington Police Department

Chief, Nevada Highway Patrol  
Nevada Highway Patrol

|                    |   |
|--------------------|---|
| TOM DAVIS          | Justice of the Peace, Carson City                         |
| DAN C. MURPHY      | Special Master, Carson City                               |
| ED POGUE           | Warden, Nevada State Prison                               |
| WILLIAM G. PARSONS | Fish and Game Department                                  |
| CARROL L. NEVIN    | Crime Commission  |
| TOM CARRIGAN       | Chief Investigator, Gaming Control                        |
| RALPH QUINTEL      | Chief Investigator, Gaming Control                        |
| VERN CALHOUN       | Narcotics   |
| JIM GEROW          | Parole and Probation                                      |
| CHARLES CRUMP      | President, Nevada Peace Officers<br>Association           |
| NANCY LEE ROGERS   | Secretary-Treasurer, Nevada Peace<br>Officers Association |

The meeting commenced at 9:20 a.m. General List addressed the group and explained how this group had accomplished their goals in the last couple of Sessions of the Legislature. The objectives would be to attempt to agree on priority pieces of legislation and if some legislation was controversial, it would be left up to the individual department or association to push for it.

Over

Howard McKibben representing the District Attorney's Association was called upon first to present the proposals of the Association. Their first proposal was a revision of the Conspiracy Statute (NRS 199.480) to make conspiracy a felony where you are conspiring to commit the major crimes such as aggravated robbery, robbery, forcible rape, kidnapping and 1st or 2nd degree arson and for this to carry a penalty of 1 to 20 years. To commit a conspiracy under the other lesser crimes would carry a penalty equal to one-half of the penalty prescribed now by statute for that crime. The final effect the proposed bill would have is to make a gross misdemeanor of all other offenses of conspiracy set forth in the statute. General List stated that for the past two Sessions this is a proposal that has never gotten out of committee and one that is not a new idea and has certainly a great deal of merit.

The next proposal was to repeal NRS 276.033(2) which provides that the Parole Board has jurisdiction over a discharged prisoner for the entire term of his sentence without regard to good time credits he may have earned. It was stated this statute is completely unworkable and has serious constitutional problems. A vote was then taken and all were in favor of repealing said statute.

The next proposal was the Controlled Substances Act which contains a provision authorizing the State Board of Pharmacy to add substances to schedules after the federal government has done so and notifies the board of such. As done now, the Board does this by administrative action and has the force and effect of law. The problem occurs that a lot of judges do not believe it and many cases have been thrown out by judges who do not believe the Board has that authority. The suggestion is to have the Legislature amend the substance schedule to make the changes by legislation that the Board has made administratively so that it will be included in the statute. Bob Groves stated that the Pharmacy Board is going to sponsor this legislation and would like the support of this coalition. All voted in favor of this request.

Over

The last proposal presented by Bob Groves was to make it illegal to procure deceased infant identification from birth certificates for sale or distribution or to utilize such system of identification to aid in the commission of a felony or to possess or use deceased infant identification. It was stated that this would a difficult statute to enforce. Jim Thompson suggested more study on this proposal before any action was taken.

ASSEMBLY JUDICIARY COMMITTEE  
58th NEVADA SESSION

LEGISLATION ACTION

DATE May 14, 1975  
BILL NO. S.B. 550

MOTION: \_\_\_\_\_

Do Pass  Amend \_\_\_\_\_ Indefinitely Postpone \_\_\_\_\_ Reconsider \_\_\_\_\_

Moved By Mrs. Wagner Seconded By Mr. Sena

AMENDMENT: \_\_\_\_\_

Moved By \_\_\_\_\_ Seconded By \_\_\_\_\_

AMENDMENT: \_\_\_\_\_

Moved By \_\_\_\_\_ Seconded By \_\_\_\_\_

| VOTE:   | MOTION                              |       | AMEND |       | AMEND |       |
|---------|-------------------------------------|-------|-------|-------|-------|-------|
|         | YES                                 | NO    | YES   | NO    | YES   | NO    |
| Barengo | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |
| Banner  | _____                               | _____ | _____ | _____ | _____ | _____ |
| Hayes   | _____                               | _____ | _____ | _____ | _____ | _____ |
| Heaney  | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |
| Hickey  | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |
| Lowman  | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |
| Polish  | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |
| Sena    | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |
| Wagner  | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |

*Hayes + Banner absent.*

TALLY:

ORIGINAL MOTION: Passed  Defeated \_\_\_\_\_ Withdrawn \_\_\_\_\_  
Amended & Passed \_\_\_\_\_ Amended & Defeated \_\_\_\_\_  
Amended & Passed \_\_\_\_\_ Amended & Defeated \_\_\_\_\_

Attach to Minutes May 14, 1975  
Date

ASSEMBLY JUDICIARY COMMITTEE  
58th NEVADA SESSION

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LEGISLATION ACTION

DATE May 14, 1975  
BILL NO. S. B. 173

MOTION: \_\_\_\_\_

Do Pass  Amend \_\_\_\_\_ Indefinitely Postpone \_\_\_\_\_ Reconsider \_\_\_\_\_

Moved By Mr. Polish Seconded By Mr. Hickey

AMENDMENT: \_\_\_\_\_

Moved By \_\_\_\_\_ Seconded By \_\_\_\_\_

AMENDMENT: \_\_\_\_\_

Moved By \_\_\_\_\_ Seconded By \_\_\_\_\_

| VOTE:   | MOTION                              |       | AMEND |       | AMEND |       |
|---------|-------------------------------------|-------|-------|-------|-------|-------|
|         | YES                                 | NO    | YES   | NO    | YES   | NO    |
| Barengo | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |
| Banner  | _____                               | _____ | _____ | _____ | _____ | _____ |
| Hayes   | _____                               | _____ | _____ | _____ | _____ | _____ |
| Heaney  | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |
| Hickey  | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |
| Lowman  | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |
| Polish  | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |
| Sena    | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |
| Wagner  | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |

*Hayes + Banner absent.*  
TALLY:

ORIGINAL MOTION: Passed  Defeated \_\_\_\_\_ Withdrawn \_\_\_\_\_  
Amended & Passed \_\_\_\_\_ Amended & Defeated \_\_\_\_\_  
Amended & Passed \_\_\_\_\_ Amended & Defeated \_\_\_\_\_

Attach to Minutes May 14, 1975  
Date



ASSEMBLY JUDICIARY COMMITTEE  
58th NEVADA SESSION

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LEGISLATION ACTION

DATE May 14, 1975

BILL NO. S.B. 586

MOTION: \_\_\_\_\_

Do Pass  Amend \_\_\_\_\_ Indefinitely Postpone \_\_\_\_\_ Reconsider \_\_\_\_\_

Moved By \_\_\_\_\_ Seconded By \_\_\_\_\_

AMENDMENT: \_\_\_\_\_

Moved By \_\_\_\_\_ Seconded By \_\_\_\_\_

AMENDMENT: \_\_\_\_\_

Moved By \_\_\_\_\_ Seconded By \_\_\_\_\_

| VOTE:   | MOTION                              |       | AMEND |       | AMEND |       |
|---------|-------------------------------------|-------|-------|-------|-------|-------|
|         | YES                                 | NO    | YES   | NO    | YES   | NO    |
| Sarengo | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |
| Banner  | _____                               | _____ | _____ | _____ | _____ | _____ |
| Hayes   | _____                               | _____ | _____ | _____ | _____ | _____ |
| Heaney  | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |
| Hickey  | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |
| Lowman  | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |
| Polish  | <input checked="" type="checkbox"/> | _____ | _____ | _____ | _____ | _____ |
| Sena    | _____                               | _____ | _____ | _____ | _____ | _____ |
| Wagner  | _____                               | _____ | _____ | _____ | _____ | _____ |

*Banner, Hayes, Sena & Wagner absent.*

TALLY:  
ORIGINAL MOTION: Passed  Defeated \_\_\_\_\_ Withdrawn \_\_\_\_\_  
Amended & Passed \_\_\_\_\_ Amended & Defeated \_\_\_\_\_  
Amended & Passed \_\_\_\_\_ Amended & Defeated \_\_\_\_\_

Attach to Minutes May 14, 1975  
Date

32 — Las Vegas Review-Journal — Thursday, April 3, 1975

## *RJ viewpoint*

# List's efforts against price-fixing applauded

Atty. Gen. Robert List is asking the state Legislature for a Nevada anti-trust law to combat price-fixing, and we support his efforts.

List says that price-fixing, bid-rigging and illegal rebates cost a great deal of money to consumers, taxpayers and legitimate business people.

The attorney general's office has been involved in several price-fixing suits nationally in which consumers were repaid for paying previously-imposed high prices.

Those who have seen advertisements for potato chip rebates understand how much price-fixing can cost the consumer, unless the matter is remedied and the money repaid.

According to the attorney general, the federal government said individual civil suits cannot solve the problem of price-fixing. Nevada needs a law so the attorney general's office can step in when matters warrant such action.

List has been advised by the Justice Department that there are some "matters pending" for the Northern Nevada area, but the federal government has insufficient man power to handle the cases.

Most of the matters involve price-fixing, with government agencies as victims, according to the attorney general.

He noted that more than 40 states have anti-trust laws, and the federal government is anxious to see Nevada adopt such a statute. There are many price-fixing abuses, which are of a grave nature, but which should be taken care of at the state level because only one jurisdiction is involved.

We applaud efforts of the attorney general to increase consumer protection under his office, and we think an anti-trust law is necessary. List assured lawmakers that he could undertake the new duties without additional staff. Also, the operation could be financed through a percentage of the money taken in from successful anti-trust prosecutions.

Implementation of an antitrust law appears to be a worthwhile, sensible way to protect consumers. It would not cost the state more, but would reap benefits for the taxpayers and consumers who are victims of unscrupulous operators.

We hope legitimate businesses — who have as much to lose as the rest of us from sharp practices — give support to this proposal. It should be in the interest of all but the unethical types.

# Nevada State Journal

A Speidel Newspaper

|                     |                      |                    |                       |
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| John P. Oates       | Circulation Manager  | Foster Church      | Editorial Page Editor |

Wednesday, April 30, 1975

## Editorials

### Top Consumer Enemy

Recently, during a hearing of the Senate Judiciary Committee, Sen. Norman Hilbrecht and Atty. Gen. Bob List crossed swords.

The reason for their disagreement was SB 173, a bill that would establish an antitrust law in Nevada.

The bill would make activities, such as price fixing, bid rigging, rebates, market allocation and refusal to deal, subject to state prosecution.

At present, Nevada does not have an antitrust law although it may initiate civil action. Federal attorneys may bring criminal charges but the 16 federal attorneys assigned to handle antitrust violations in 12 western states are able to prosecute only the most glaring violations.

List believes antitrust violations are examples of white collar crime which should be punished — in the same manner that robberies and the like are punished. List particularly notes that the antitrust violator usually costs the consumer more money than the bank robber and that his actions affect many more people.

Hilbrecht, on the other hand, would go easier on the antitrust violator, believing that such a violation is merely a case of being

“a little overzealous in competitive spirit.”

We can't dispute Hilbrecht's characterization of the antitrust violator as overzealous. But we believe such an excess of zeal should be met with a criminal penalty and we support SB 173, which was introduced by Sen. Carl Dodge.

Antitrust violations are among the most serious crimes against the consumer — in terms of dollars, far more serious than peddling inferior grades of meat or watered down milk.

The attorney general's office notes antitrust legislation would “benefit not only the consumer, but would aid the businessman and the taxpayer as well — the businessman because he is frozen out of the marketplace by big interests employing these schemes, and the taxpayer because the state, cities and counties must pay more, too.”

United in support of SB 173 is an unlikely coalition: the Consumer League of Nevada, the Nevada Retail Association, the Nevada Taxpayers Association and Citizens for Private Enterprise.

Any piece of legislation that can draw together these diverse groups must have extremely widespread beneficial effects.

## Editorials

**Double standard**

ONE OF THE oldest double standards of mankind has popped up in legislative debate over a proposed state anti-trust act.

It's the double standard of one justice for the powerful and another for the rest of us.

The bill, as proposed by Atty. Gen. Bob List, would contain only one standard. Anti-trust offenders, like other wrongdoers, would face criminal penalties: in this case, one to six years in prison and a maximum fine of \$100,000.

But some members of the Senate Judiciary Committee wanted to eliminate the criminal penalties and levy only civil fines.

Listen to one of these senators, Norman Hilbrecht, D-Las Vegas: "The judges are aware of the fact that the president of a corporation who engages in this kind of conduct . . . is not necessarily the kind of person you want to put in the penitentiary or fine \$100,000. He may be a little overzealous in his competitive spirit, that's all."

This is a rather remarkable statement. In the minds of most people, there's nothing competitive about a group of businessmen getting together secretly to set artificially high prices or to rig bids on public projects.

If this is news to Hilbrecht, he might be further surprised to learn that most Americans believe corporate criminals should go to jail just like less influential thieves. Perhaps Hilbrecht was out of the country during the uproar over the pardon of Richard Nixon, and missed the American people's emphatic message that there should be one justice for all.

Hilbrecht's statement is symptomatic of the tunnel vision which thinks expensively-dressed people who steal from behind closed doors are somehow better than people who steal in alleys and are dressed in jeans.

They're not.

They are more calculating and more arrogant, and they rob the public of just as much money, if not more, than the common criminal.

The white collar crimes of the powerful are just as corruptive of society, and possibly moreso. Corporate criminal activities help create a climate in which other crime is encouraged, either through emulation or disgust.

The effect is even worse when corporate crimes are chided only by light slaps on the wrist. And for many wealthy businessmen, civil fines are just that — a slap on the wrist.

Hilbrecht and some other members of the judiciary committee disagreed. They pointed out that an offender could be sued for triple damages by any person whose business or property was injured by the price-fix. In addition, an offender could be fined up to five per cent of the gross income received from his illegal activities, and the court could suspend or dissolve the business involved.

These punishments sound fine on paper. But their actual deterrent value is questionable. Competing businessmen might sue; but if the price fix is worth its salt, all the businesses concerned will be cooperating in it. Businesses buying from the price-fixers might sue, but there's no guarantee they would want to spend that much time in court, unless they had suffered severe losses. Consumers might sue, but they probably wouldn't. A judge could suspend the business, but judges traditionally have been reluctant to do this. The state probably would exact the five per cent gross income penalty, but this is the only real certainty.

Most potential price-fixers would probably conclude that they wouldn't be caught; but if they were, the gains would greatly exceed the losses.

Only potential jail terms can pose enough of a threat to deter price-fixing. And only jail terms can convince the public that the law is equally concerned with punishing the rich along with the poor.

Reason seems to be prevailing on the judiciary committee. The majority of members have provisionally approved List's bill with the criminal penalties retained. A final committee vote is due next week, then action by the full Senate, following which the bill, if passed, will go to the Assembly.

Both houses should retain the criminal penalties and give the law the teeth it needs to work properly.