

MEMBERS PRESENT: Chairman Stewart
Vice Chairman Sader
Mr. Thompson
Ms. Foley
Mr. Beyer
Mr. Price
Mr. Chaney
Mr. Malone
Mrs. Cafferata
Ms. Ham
Mr. Banner

MEMBERS ABSENT: None

GUESTS PRESENT: William W. Baker, Christian Coalition - LV
James T. Spencer, Legislative Counsel Bureau
Paul Cohen
Kent Clifford, LV Metro Police
S. Morrow, NV Appeal
Chris Broderick, LV Review Journal
Bruce Klahr
Lee Adler, Reno Gazette
Bill Curran, Clark County District Attorney's
Office
Steve Elliott, Sparks City Attorney
Scott Doyle, Clark County District Attorney's
Office
Bryn Armstrong, Parole Board
Tom Austin, KOLO-TV
Jean Klebenow, Washoe Co. School District
Health Council
Fred Davis, Chamber of Commerce
Colleen Dolan, UNR Intern (Stewart)
Bruce Blackadar, American Civil Liberties Union
John Barriage, UNR Intern (Raggio)
Jack Reynolds, UNR Intern (Lamb)
Ed Kovacs, Assembly District No. 1
Joseph D. Sevigny
Thelma Clark
Regina Kile

Although Chairman Stewart was present at the meeting, Vice Chairman Sader presided, calling the meeting to order at 8:10 a.m. The first bill on which testimony was heard was AB 148.

AB 148: Prohibits manufacture, sale, delivery or advertisement of drug paraphernalia.

Mr. Stewart testified first on this bill, since he had introduced it. After reading the prepared statement attached as EXHIBIT A, he proceeded to review the bill in general outline form. Mr. Stewart noted that AB 148 differed from the Model Act slightly

in that AB 148 does not include all the specialized items listed in the Model Act under section 2, subsection 12, page 2. It was felt these additional items would be included in the general language at the beginning of subsection 12, and it was not necessary to list them all.

Section 8 of AB 148 is an addition not found in the Model Act. It allows the district attorney or city attorney, whoever has jurisdiction, to go civilly, in an injunction proceeding in district court, to enjoin the sale or the transfer of drug paraphernalia.

Section 9 of the bill is an attempt to add forfeiture to the Controlled Substances Act.

Mr. Stewart pointed out that the main argument to this type of legislation is that it is vague, and that some of these articles have legitimate uses so how can you proscribe those kinds of uses; e.g., scales, hypodermic devices, etc. Mr. Stewart referred to a special report published in the Narcotics Control Digest, and read from the underlined portions of EXHIBIT B.

Mr. Stewart summarized his testimony by urging the Committee address this problem. He noted that some amendments to the bill might be in order, but suggested the bill conform as closely as possible to the Model Act because it is the subject of litigation and decisions that affect this bill in other jurisdictions will give Nevada a guide as to where this law stands in regard to constitutional provisions.

Mr. Malone pointed out that the penalty for violation, as noted in section 4 of the bill, is a misdemeanor; however, the penalty for possession of a controlled substance is currently a felony. It would appear to be more appropriate to have possession of the paraphernalia also be a felony. Mr. Price agreed with Mr. Malone, and added that since Nevada has some of the toughest drug laws in the nation, this stance should be reflected in AB 148 also. Thus, although the bill would differ somewhat from the Model Act, it would conform more closely with other Nevada statutes.

At this point Mr. Stewart asked Mr. Scott Doyle, Deputy District Attorney for Clark County, to come forward and clarify certain points for the Committee. Mr. Doyle explained the current status of the Clark County ordinance on drug paraphernalia, which is in litigation in the 8th Judicial District Court. It was noted that while several cities have adopted ordinances on this, there is no current law which prohibits a minor from entering such places, except for the city of Sparks ordinance.

Mr. Fred Davis, Director of Government Affairs for the Greater Reno-Sparks Chamber of Commerce, testified next. He said drug abuse is a very serious and critical problem, particularly

among the younger people of the community, who are our greatest resource. He noted that if these young people are subjected to drug involvement to the point that it is destructive to their physical and/or mental well-being, then this widespread problem is very serious indeed.

Mr. Davis said it was unconscionable for someone to profit at the expense of young people, and for the head shops to use the law to flaunt the law. The Chamber definitely favors this bill and urges the Committee to pass it.

Mr. Davis further noted that having drug paraphernalia available generally in legitimate enterprises frequented by young people lends this paraphernalia an inherent credibility and acceptability by society; this is wrong. He added that the time has arrived where the State has to run the risk of going to litigation to protect these children and prevent people from preying on them.

Mr. Paul Cohen stated he was present to testify in favor of AB 148. He said he has offered his services to a project in Washoe County called Operation Toma, which is an outgrowth of the Reno-Sparks David Toma Project which occurred in Washoe County. He added he was also the previous administrator for the single State agency for alcohol and drug abuse. He said based on this experience, he offered the Committee his sympathy and his support for what they are attempting to do; but he felt he had to point out that this bill would involve a very large fiscal note.

Mr. Cohen said once you have identified someone who has violated a law, and you are dealing with a juvenile, you will find that the court is hesitant to incarcerate young people, but will try to place them into a situation where they can be dealt with in a very humanistic approach to find out what really is the problem. To do this, you need programs and trained professionals. At present, the State does not have sufficient resources and/or manpower to deal with the problem.

Mr. Cohen explained to Mr. Sader that the main impact will be upon all the "treatment slots" in the bureau of alcohol and drug abuse, which are supported by tax dollars and which are already at their saturation point. This is where these juveniles will be sent by the courts. Additionally, this law will draw the attention of the public to existing drug abuse laws; this will result in increased demand that these laws be enforced; which in turn will result in society being sensitized to the need for better programs and enforcement of these laws and programs.

Mr. Beyer noted that hopefully this law will act as a deterrent and prevent the problem, thus eliminating the need for sending people into these programs and/or incarcerating them. Mr. Cohen agreed that strong laws, strongly enforced, do have a deterrent

effect; however, there will always be some individuals who will persist in crime.

Commander Kent Clifford of the Metropolitan Police Department in Clark County came forward to testify next. He explained that he has been an undercover narcotics agent for 7½ years, and that he has dealt very closely with the kids and with the people who go to drug paraphernalia stores. Mr. Clifford said it seemed rather ludicrous to him to be out on the street combatting the drug problem in Clark County when the kids could go into a head shop and buy any paraphernalia they wanted. He said these people are "bloodsuckers" on the youth of today and on the people who are addicted to drugs.

Mr. Clifford described video tapes made of several head shops and the type of people who frequent them. He said that if an individual was into this type of business and/or into this type of cult, then he was also into the drug business. He added that several cases are currently pending against certain head shops in Clark County for selling drugs. He noted that this is a very lucrative business, and that these people can only be termed "profiteers".

Mr. Clifford summarized his testimony by urging the passage of AB 148, which can only help the youth of Nevada. He agreed with Mr. Beyer that passage of this law will send the sellers of this paraphernalia underground and will make his job more difficult; however, it will also effectively show that society does not condone such activity and it may make it more difficult for kids to obtain these items.

Regarding the penalty for possession of drug paraphernalia, Mr. Clifford does not think it should be a felony. He argued that in the case of an 18 year old kid, for example, who has a roach clip hanging from the rear view mirror of his car, no judge will convict him of a felony, nor does Mr. Clifford think he should. Mr. Clifford does support wholeheartedly, however, making sales of such paraphernalia a felony.

Mr. Beyer noted, and Mr. Clifford agreed that AB 148 would be extremely successful in eliminating that percentage of juveniles who frequent head shops on a dare, or out of curiosity, etc. He added, out of sight, out of mind.

Mr. Price reiterated here that in Mr. Clifford's opinion, section 4 of the bill, regarding use and possession, should carry a penalty of misdemeanor, while the sale of such items should be a felony. He added that this would be more appropriate, as far as possession is concerned.

In reply to Mr. Malone, Mr. Clifford said that there currently is no law against cultivation of marijuana, and that when they find a person growing it they have to prosecute for possession only.

Next to come forward was Mr. William Baker, representing the Christian Coalition organization. His testimony was based upon the notes attached as EXHIBIT C.

Following a fifteen minute recess, Ed Kovacs, Assemblyman for District No. 1 and a co-sponsor of AB 148, testified. Mr. Kovacs explained that one of the reasons he was a co-sponsor of the bill was that during the last campaign he had researched his district by mail and received an exceedingly large response concerning this topic. He added that his district includes a wide range of income levels and interests, and thus he feels his survey reflects Nevada as a whole.

Next to speak was Mr. Steve Elliott, City Attorney of Sparks. He too urged the adoption of AB 148. He said he did not feel this bill would present any problem in court, and that he had a list of U.S. District Courts which had upheld exactly this act. Additionally, there have been several State Supreme Courts--Florida, Kansas, etc.--which have upheld it.

Mr. Elliott stated he was present to explain the Sparks experience with this type of legislation. Sparks drafted the first drug paraphernalia law, which was modeled after the Model Act. He said they had been in court with it for a little while, and the opponents to it have just about caved in. Meanwhile, the ordinance is still being enforced.

The Sparks ordinance differs somewhat from the Model Act in that it deals only with the sale and display of drug paraphernalia to minors under the age of 18; this is because it seemed illogical to completely ban something which can be obtained a few miles away. There is general consensus that the Sparks law is working satisfactorily.

Mr. Elliott proceeded to describe how the different shops selling these items have conformed to the law. He opined that the ordinance has resulted in a decrease in sales, although the shops have been able to stay in business.

According to Mr. Elliott, the beauty of the Model Act is that it looks at the entire operation: representations by the manufacturer, representations by the store owner, the intended use, etc.

Mr. Elliott pointed out that there are two ways of approaching this situation: 1) completely prohibit the sale of these items in the State or 2) prohibit only the sale to minors. He noted that California has adopted the second option, not by making sale to a minor a criminal offense, but grounds for revoking the business' license and closing down the shop.

Mr. Bruce Blackadar, representing the American Civil Liberties Union, was the only person to testify in opposition to AB 148. Mr. Blackadar said that while the ACLU favors combatting drug abuse and does not oppose regulation of drug paraphernalia if done properly, this particular bill has serious civil liberties and/or constitutional problems.

The problems were outlined as follows:

Section 3: The criteria for determining whether or not an item is drug paraphernalia are inappropriate. In particular subsection 2, which permits consideration of prior convictions on drug related offenses, is a fundamental violation of due process of law. Additionally, subsection 11 seems to give an exemption to someone who appears to be a legitimate supplier of these items in the community. Finally, subsection 12 is an irrelevant criterion for determining whether a particular item is drug paraphernalia.

The crux of the problem with section 3 is that the criteria for determining whether or not an item is drug paraphernalia are impermissably vague or subjective.

Sections 4 and 5: The language referring to "possession with intent to use or sell" is too vague and therefore questionable.

Section 3, subsection 5: The fact that the existence of residue can be used as evidence raises questions about search and seizure. This might appear to give license to law enforcement officers to have any item that might possibly be used as drug paraphernalia examined for existence of residue.

Section 3, subsections 7-9: The constitutionality of these sections relating to advertising vis-a-vis the first amendment is questionable.

Section 9, subsection 4: This portion is much too broad; it could be applied to such things as informational booklets on drugs, etc. and therefore is possibly in violation of the first amendment.

As there were no other witnesses for this bill Mr. Sader said the Committee would hear testimony on SB 182.

SB 182: Allows one member of state board of parole commissioners to sit as referee.

Mr. Bryn Armstrong was the only witness to testify on this bill; he is Chairman of the Nevada Board of Parole Commissioners.

Mr. Armstrong explained that the purpose of this bill is to permit a single member of the full time Board of Parole Commissioners to hold hearings in certain cases and report back

recommendations to the full three man Board. This is necessitated by the increasing case load requiring their attention.

The projected scenario is as follows: a Hearing Referee, i.e., a single Commissioner, would hold hearings in parole situations and then report back to the full Commission with a recommendation that parole be denied, or granted, etc., and then the entire Commission would have to ratify that decision.

Mr. Armstrong noted that, strangely enough, that power rests now in so-called Hearing Representatives, who are part-time lay people. The Commission can designate as a Referee a single Hearing Representative, who would report back to the Commission a recommendation which would be ratified or denied, but a single Commissioner cannot currently do the same thing. Mr. Armstrong believed this came about because at the time the original law was passed the Board was part-time and there was not that much difference between a Parole Commissioner and a Hearing Representative.

It was noted that the Board presently is in the business of paneling; i.e., a single Commissioner and a Hearing Representative both sit. SB 182 would simplify the process greatly.

Subsection 5 of this bill clarifies that the Board must adopt regulations which establish the types of cases delegable; the Board has been doing this on an informal basis for some time.

Mr. Armstrong noted that the Board would never use this single Commissioner system for a major murder case, or one in which there was considerable community interest (i.e., kidnapping, rape, some armed robberies, etc.). The single Referee would be primarily concerned with the youthful, first term offender of crimes against property. He added that the bill was merely to expedite the work of the Commission, which is soon going to need quite a bit of assistance.

In reply to Mr. Chaney, Mr. Armstrong stated there had been an attempt to increase the number of members on the Board, however this suggestion did not survive the budget screening process. The request had been for an increase from 3 to 5 Commissioners.

Mr. Armstrong then requested permission to testify on AB 148; the Committee had no objection to this.

AB 148: Prohibits manufacture, sale, delivery or advertisement of drug paraphernalia.

Mr. Armstrong noted that as Chairman of the Parole Board for the last 3½ years, he has sat in on interviews involving 6,000 prison inmates (some of whom have been seen before, since the total population is about 2,000 now), and in almost every case involving major drug abuse the individual started with marijuana, usually between the ages of 8 and 11 years.

653

Mr. Armstrong pointed out that the fiscal impact is of incomprehensible proportions. The cost to the victim, the cost to the drug abuser, the cost to the State for incarceration, all this amounts to a large sum of money; however, the human cost is higher. Many individuals cannot recall what they did while under the influence of drugs which resulted in their arrest. Also, there is evidence the chemicals contained in marijuana may accumulate in the body, possibly resulting in genetic problems, physical problems where a high occurs even when the person hasn't been smoking, etc.

Mr. Armstrong went on to speculate that if it were not for the problems of drug and/or alcohol abuse there would presently be no need for a new prison, nor would one be needed for another 5-10 years.

SB 182: Allows one member of state board of parole commissioners to sit as referee.

Mrs. Cafferata, following Mr. Armstrong's testimony on AB 148, asked a question regarding whether or not the new procedure suggested by SB 182 was really fair to the individual appearing before the Board. Mr. Armstrong replied it would be fair since the decision of that single Referee would be looked at by the other members of the Commission. Other members of the Committee noted that the Nevada Industrial Commission uses the procedure recommended in SB 182, and even the Supreme Court has authority to sit in panels of 3 and occasionally handles writs in this manner. Mr. Armstrong added that the Board of Parole Commissioners can currently delegate this authority to a single Hearing Representative who is a part-time lay person, but the Commissioners themselves cannot singly hold a hearing.

In reply to Mr. Malone it was explained that since the Board currently panels certain hearings, and there have been no problems regarding who attends which hearing, it is doubtful such a problem would arise if SB 182 is passed.

As there was no further testimony on SB 182, Mr. Sader declared the public hearing on this bill closed.

Mr. Price moved DO PASS SB 182, seconded by Mrs. Cafferata, and passed unanimously.

Next Mr. Price moved AMEND AB 148 section 5 to make it a felony to deliver or sell drugs, and to correlate this section with section 6; i.e., it should be a felony to sell rather than be a gross misdemeanor. Mrs. Cafferata seconded the motion.

During the ensuing discussion the problem of differentiating between those individuals 18 years old or younger and adults arose. The possible existence of other statutes which could conflict with this law was also questioned; although it was noted that this bill dealt with paraphernalia rather than drugs themselves.

themselves. It was also noted that section 4 could be interpreted to mean the person who produces or prepares drugs for use by others or the person who does it for their own use; however following further discussion it was decided section 4 involved the person doing it for their own use, while section 5 was for the seller. It was finally agreed that if the penalty under section 5 was raised to a felony, then there was no need for section 6; thus, section 5 would become a felony and section 6 would be eliminated.

The Committee agreed that the amendments should be requested from the bill drafter and reviewed by the Committee prior to voting on Mr. Price's motion.

Regarding the discussion on Wednesday, 4 March 1981, concerning AB 4 and Mrs. Cafferata's proposed amendment and/or new bill, Mr. Price stated that after thinking about it he felt the Committee should reconsider its decision. He pointed out that until a bill is drafted and testimony is heard on the subject, the Committee does not really have enough information to make an intelligent, unbiased determination of the value of that bill. He said he would like to change his vote of yesterday to one in favor of drafting the new bill.

Mr. Price moved RECONSIDER yesterday's Committee vote regarding the drafting of a new bill authorizing county commissioners to set the fees paid court reporters. Mr. Stewart seconded the motion, and it passed unanimously.

Mr. Price then moved DRAFT A NEW BILL, seconded by Ms. Foley.

During the discussion which followed, Mr. Malone raised the issue that since the Committee had previously expressed the opinion that such a bill was undesirable, was it worth the cost of drafting it, knowing it will probably be killed by the Committee.

Ms. Foley said she felt the bill would be referred to the Government Affairs Committee, and not the Judiciary Committee, hence it would not be killed and should be drafted.

Mr. Beyer pointed out that the reason for receiving testimony is to inform the Committee members of the various aspects of a subject. He added the Committee should not approach any topic with preconceived ideas, and that the bill should therefore be drafted so the Committee can hear all sides of the story.

Mr. Sader asked for clarification as to when the new bill would go into effect, since it would have a major impact upon the counties. Mrs. Cafferata said she had not made any decision on this, but it appeared it would be best if the effective date were listed as July 1982, in order to give the counties time to budget for this new expense.

Mr. Thompson then said he felt he had to agree with Mr. Malone regarding the expense and the probability the bill will be killed, and therefore he felt if Mrs. Cafferata still wanted Committee introduction of her bill she should seek it from the Government Affairs Committee.

Mrs. Cafferata pointed out that the Judiciary Committee has heard testimony on AB 4, but has not heard testimony on her proposed bill.

Regarding Mr. Price's motion concerning the drafting of Mrs. Cafferata's proposed bill, Mr. Sader called for a roll call vote on whether or not it should be drafted and introduced by the Committee. The vote was 7 in favor of drafting the bill, with Mr. Thompson, Mr. Sader, Mr. Malone and Mr. Banner voting against the motion.

Next Mr. Sader reminded the Committee that during the 4 March 1981 Committee meeting he had given notice of reconsideration of his vote in favor of drafting the Clark County Juvenile Court bill. He noted the reason for this was that a Committee policy question was involved: Will the Committee make an evaluation of a bill prior to any Committee introduction; i.e., make a decision as to whether or not a bill has merit prior to introduction. If this is to be the case, then every bill should be thus considered. Therefore, Mr. Sader called for a reconsideration on the premise the Committee might want to start doing this.

Mr. Sader moved RECONSIDER the vote regarding the drafting of the Clark County Juvenile Court bill, seconded by Mrs. Cafferata.

Mr. Sader then said he wanted to start the discussion by noting he felt it advisable to get Committee introduction on some bills, without prior evaluation by the Committee. He felt the previous vote concerning Mrs. Cafferata's proposed bill was a different situation in that the concept of her bill had been discussed and reviewed during the hearing on AB 4. He said he realized not everyone agreed with this last statement, but that was his position.

Mr. Sader continued, saying he would prefer to keep the process as is; i.e., allow bills to be introduced without close scrutiny so they can be heard without trying to make a judgment before having the benefit of a hearing.

Mr. Chaney said he agreed with Mr. Sader, and noted he did not want the Committee to start discriminating between agency requests and requests by Committee members for bill introductions. He added the Committee owes each member the respect of introducing a bill which a member has requested. He also pointed out that if an outside agency requested a bill it might be appropriate for the Committee to discuss it if there were major problems with it, but it is owed to a member of the Committee to introduce bills they personally request be introduced.

Mrs. Cafferata pointed out that at some time, for reasons of practicality, the Committee was going to have to call a halt to bill introductions. Mr. Price noted that the reason some bills are drafted so late in the session is because a need for a particular piece of legislation did not become apparent until then. Thus, he recommended the Committee continue to look at and consider all introduction requests, no matter how late they are received. Additionally, Mr. Price noted not all bills requested by agencies were out of the bill drafter's office yet, since those bills requested by the Legislators are--and should be--given priority by that office.

Mr. Sader then clarified that his motion was to reconsider whether or not the Committee should introduce the Clark County Juvenile Court bill as a Committee introduction. He explained that a "no" vote would result in the bill being introduced by the Committee. A "yes" vote would result in the Committee reconsidering their previous decision to so introduce it.

Mrs. Ham asked if this would set a precedent requiring the Committee to reconsider all bills. It was agreed by the other members this would not set a precedent.

Mr. Stewart said he wished to speak against the motion because he feels this particular bill needs a Committee introduction. He pointed out that the Juvenile Court System has been working on this proposal for two years, and that it is late in being introduced because of personnel and administrative changes. He felt that out of respect to Judge Mendoza and the Clark County Juvenile Court Services the bill should be introduced.

Mr. Chaney pointed out that rule 10 of the Committee Rules covers this point, and that if a member can obtain the concurrence of two-thirds of the Committee then the rest of the Committee has no choice but to introduce the bill.

Regarding Mr. Sader's motion to RECONSIDER introduction of the Juvenile Court bill, the vote was unanimously against reconsideration.

Mr. Sader adjourned the meeting at 10:50 a.m.

Respectfully submitted,

Pamela B. Sleeper

Pamela B. Sleeper
Assembly Attache

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: Thursday, 5 March 1981

SUBJECT: SB 182: Allows one member of state board of
parole commissioners to sit as referee.

MOTION:

DO PASS XX AMEND INDEFINITELY POSTPONE
RECONSIDER

MOVED BY: MR. PRICE SECONDED BY: MRS. CAFFERATA

AMENDMENT:

MOVED BY: SECONDED BY:

AMENDMENT:

MOVED BY: SECONDED BY:

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Foley	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Beyer	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Price	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Sader	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Stewart	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Chaney	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Malone	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Cafferata	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Ham	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Banner	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
TALLY:	<u>11</u>	<u>0</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

ORIGINAL MOTION: Passed XX Defeated Withdrawn

AMENDED & PASSED AMENDED & DEFEATED
AMENDED & PASSED AMENDED & DEFEATED

ATTACHED TO MINUTES OF Thursday, 5 March 1981

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: Thursday, 5 March 1981

SUBJECT: Reconsideration of the 4 March 1981 Committee vote regarding the drafting of a new bill authorizing county commissioners to set the fees paid court reporters.

MOTION:

DO PASS _____ AMEND _____ INDEFINITELY POSTPONE _____
 RECONSIDER XX

MOVED BY: MR. PRICE SECONDED BY: MR. STEWART

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	<u>X</u>	—	—	—	—	—
Foley	<u>X</u>	—	—	—	—	—
Beyer	<u>X</u>	—	—	—	—	—
Price	<u>X</u>	—	—	—	—	—
Sader	<u>X</u>	—	—	—	—	—
Stewart	<u>X</u>	—	—	—	—	—
Chaney	<u>X</u>	—	—	—	—	—
Malone	<u>X</u>	—	—	—	—	—
Cafferata	<u>X</u>	—	—	—	—	—
Ham	<u>X</u>	—	—	—	—	—
Banner	<u>X</u>	—	—	—	—	—
TALLY:	<u>11</u>	<u>0</u>	—	—	—	—

ORIGINAL MOTION: Passed _____ Defeated _____ Withdrawn _____
 AMENDED & PASSED _____ AMENDED & DEFEATED _____
 AMENDED & PASSED _____ AMENDED & DEFEATED _____
RECONSIDERED XX

ATTACHED TO MINUTES OF Thursday, 5 March 1981

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: Thursday, 5 March 1981

SUBJECT: Drafting of a bill which would authorize the county commissioners to set the fees paid court reporters for Committee introduction.

MOTION:

DO PASS XX AMEND _____ INDEFINITELY POSTPONE _____
 RECONSIDER _____

MOVED BY: MR. PRICE SECONDED BY: MS. FOLEY

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	_____	<u>X</u>	_____	_____	_____	_____
Foley	<u>X</u>	_____	_____	_____	_____	_____
Beyer	<u>X</u>	_____	_____	_____	_____	_____
Price	<u>X</u>	_____	_____	_____	_____	_____
Sader	_____	<u>X</u>	_____	_____	_____	_____
Stewart	<u>X</u>	_____	_____	_____	_____	_____
Chaney	<u>X</u>	_____	_____	_____	_____	_____
Malone	_____	<u>X</u>	_____	_____	_____	_____
Cafferata	<u>X</u>	_____	_____	_____	_____	_____
Ham	<u>X</u>	_____	_____	_____	_____	_____
Banner	_____	<u>X</u>	_____	_____	_____	_____
TALLY:	<u>7</u>	<u>4</u>	_____	_____	_____	_____

ORIGINAL MOTION: Passed XX Defeated _____ Withdrawn _____
 AMENDED & PASSED _____ AMENDED & DEFEATED _____
 AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES OF Thursday, 5 March 1981

**61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION**

DATE: Thursday, 5 March 1981

SUBJECT: Reconsideration of an earlier Committee vote favoring
Committee introduction of a bill requested by the
Clark County Juvenile Court.

MOTION:

DO PASS _____ AMEND _____ INDEFINITELY POSTPONE _____
RECONSIDER XX

MOVED BY: MR. SADER SECONDED BY: MRS. CAFFERATA

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	_____	<u>X</u>	_____	_____	_____	_____
Foley	_____	<u>X</u>	_____	_____	_____	_____
Beyer	_____	<u>X</u>	_____	_____	_____	_____
Price	_____	<u>X</u>	_____	_____	_____	_____
Sader	_____	<u>X</u>	_____	_____	_____	_____
Stewart	_____	<u>X</u>	_____	_____	_____	_____
Chaney	_____	<u>X</u>	_____	_____	_____	_____
Malone	_____	<u>X</u>	_____	_____	_____	_____
Cafferata	_____	<u>X</u>	_____	_____	_____	_____
Ham	_____	<u>X</u>	_____	_____	_____	_____
Banner	_____	<u>X</u>	_____	_____	_____	_____
TALLY:	<u>0</u>	<u>11</u>	_____	_____	_____	_____

ORIGINAL MOTION: Passed _____ Defeated XX Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____
AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES OF Thursday, 5 March 1981

DRUG ABUSE IS PROBABLY THE NUMBER ONE PROBLEM FACING OUR YOUNG PEOPLE TODAY. A RECENT STUDY INDICATES THAT ONE OUT OF NINE SENIOR HIGH SCHOOL STUDENTS SMOKE MARIJUANA EVERY SINGLE DAY. IN SOME SCHOOLS KIDS WHO NEVER USE IT ARE IN THE MINORITY. TEENAGERS THEMSELVES, ACCORDING TO A GALLOP POLL, CONSIDER DRUG ABUSE TO BE THE NUMBER ONE PROBLEM.

MARIJUANA IS PROBABLY THE MOST FREQUENTLY ABUSED DRUG. NEW MEDICAL EVIDENCE PROVES THAT THE USE OF MARIJUANA IS MUCH MORE HARMFUL THAN ORIGINALLY THOUGHT. PART OF IT HAS TO DO WITH THE FACT THAT MARIJUANA SOLD TODAY IS MUCH STRONGER THAN THAT SOLD IN YEARS PAST.

EVIDENCE SHOWS THAT:

1. FREQUENT USE CAN EFFECT MEMORY, INTELLECTUAL PERFORMANCE AND ABILITY TO LEARN;
2. IT IMPAIRS DRIVING AND OTHER SKILL PERFORMANCES.
ONE STUDY IN MASSACHUSETTS SHOWED THAT 17% OF THE DRIVERS RESPONSIBLE FOR FATAL ACCIDENTS WERE STONED ON MARIJUANA. IN CALIFORNIA IT IS ESTIMATED THAT BETWEEN 15-20% OF ALL AUTOMOBILE ACCIDENTS ARE CAUSED BY DRIVERS STONED ON MARIJUANA.
- .3. OTHER AREAS OF CONCERN BY MEDICAL PEOPLE ARE THE EFFECTS ON THE HEART, LUNGS, THE BODY'S IMMUNITY SYSTEM, GLANDS AND HORMONES WHICH PERFORM FUNCTIONS RELATED TO GROWTH AND ENERGY LEVELS, AND HUMAN REPRODUCTION.

HOW DOES DRUG ABUSE RELATE TO DRUG PARAPHERNALIA AND AB 148?
 I HAVE NO ILLUSIONS THAT PASSING THIS BILL WILL STOP ALL DRUG
 ABUSE. (PASSING A LAW AGAINST MURDER DOESN'T STOP THE KILLING.)
 DRUG ABUSE IS VERY HARMFUL TO OUR SOCIETY--AND IF WE CAN STOP
 THE TREND TO INCREASE ITS USAGE, AND MAYBE START THE TREND IN
 THE OTHER DIRECTION, WE WILL HAVE DONE SOMETHING VERY WORTHWHILE.

(READ UNDERLINED PORTIONS OF ATTACHED ARTICLES)

AB 148 IS TAKEN FROM THE MODEL ACT AS PREPARED BY THE DRUG
 ENFORCEMENT ADMINISTRATION OF THE DEPARTMENT OF JUSTICE. THE
 ACT WAS DESIGNED TO BE ADOPTED BY ALL THE STATES IN THIS
 COUNTRY--10 STATES HAVE ALREADY ADOPTED THE ACT--NEEDLESS TO SAY
 THE PARAPHERNALIA INDUSTRY HAS BEEN BUSY CHALLENGING THESE
 LAWS.

ACCORDING TO THE JUSTICE DEPARTMENT, IN 7 STATES THE MODEL ACT
 HAS GONE TO COURT AND ALL HAVE UPHELD THE ACT. HOWEVER, IN A
 CASE ARISING IN OHIO, A CITY ORDINANCE WHICH ADAPTED THE MODEL
 ACT, ALTHOUGH UPHELD IN FEDERAL DISTRICT COURT, WAS HELD
 UNCONSTITUTIONAL BY THE 6TH CIRCUIT COURT OF APPEALS.

I AM TOLD BY THE DRUG ENFORCEMENT ADMINISTRATION THAT THE MODEL
 ACT IS NOW PENDING DECISIONS IN THE 8TH, 4TH, AND 5TH CIRCUIT
 COURTS OF APPEALS. IT IS EXPECTED THAT THE 8TH CIRCUIT COURT
 WILL RULE THIS MONTH. I AM HOPEFUL OF A FAVORABLE DECISION;
 I SAY THAT BECAUSE THE 8TH CIRCUIT, IN A PREVIOUS CASE GEIGER
 V. CITY OF EAGAN 618 F2ND26 DECIDED MAR 1980, WHILE HOLDING
 UNCONSTITUTIONAL THE CITY'S ORDINANCE ON DRUG PARAPHERNALIA, 663

REFERRED THEM TO THE MODEL ACT--THE SAME ONE WE ARE CONSIDERING
HERE TODAY--AS A PROPERLY DRAWN ORDINANCE OR LAW TO PROHIBIT
DRUG PARAPHERNALIA.

Drug Enforcement

March 1980

Marihuana Under The Microscope

If we have learned anything new about drug abuse in the 1970's, it is that drug abuse knows no geographical bounds or particular favoritism toward one social group or another. Drug abuse is indeed a global problem and one which we can ill afford to ignore. It is a problem which will unfortunately follow us into the next decade. The continued abuse of drugs in American society is a source of great concern to the President, the Administration, and to all of us. No one involved in drug law enforcement or drug abuse prevention will refuse to acknowledge the seriousness and extent of the drug problem in our society. But, I think we can use this pivotal period before what promises to be a challenging decade to point with pride to our accomplishments, to renew our commitment to solving the problem, and to meet what I believe will be the challenge of the 1980's.

During the past three years, we have all played a significant role in reducing drug abuse in the United States and hence improving the quality of life for many Americans. To enhance the federal drug law enforcement efforts, President Carter has signed into law a number of pieces of legislation, among which are the Customs Procedural Reform and Simplification Act of 1978; the Psychotropic Substances Act of 1978; and the Federal Magistrate Act of 1979. All of these laws will provide federal law enforcement officers and prosecutors with the tools needed to bring a halt to drug trafficking and other related criminal activities.

In addition to legislative initiatives, we have seen in the past three years a significant decline in the number of heroin users in the United States, from 560,000 in 1975 to 380,000 in 1978. The success of

our efforts stems in large part from our cooperation with the Mexican Government, all of which has brought about a 20 percent decline in the amount of Mexican heroin available in the United States. The number of overdose deaths and heroin-related injuries in this country has dropped considerably. While applause for these accomplishments is indeed in order, the heroin problem is regrettably endemic to the civilized world and must be continually monitored even when we see some glimmers of hope.

Besides these very tangible accomplishments, we have all played a role in bringing about a greater emphasis on financial investigations of the major drug traffickers. This means of thwarting the organized and financially independent drug trafficker holds the greatest promise for the coming decade. We have also seen more active and more effective cooperation among federal, state and local law enforcement officers in working together to bring all law enforcement attention to this serious problem.

These are but a few of the achievements we have seen in the past three years. And yet, the challenge for the 80's lies not just in law enforcement accomplishments alone or in health achievements alone; it steps beyond these efforts to focus on the realm of public morality.

If we are to reduce drug abuse and trafficking in the United States, we must change the current social atmosphere which so casually accepts and even glamorizes drug abuse. President Carter, myself and other members of the Administration are very concerned about the growing social acceptance of drug use in our country. We have

Prospect of the 1980's: Challenge and Response

Lee I. Dogoloff

Associate Director for Drug Policy
The White House

seen a very disturbing trend to glamorize the use of such drugs as marihuana and cocaine and to lull the general public into a false belief that these drugs are harmless. Perhaps, even worse, the use of drugs may have become even a fashionable pastime. This permissive attitude poses particular difficulties for law enforcement officials who must enforce the laws. The waning public support is not only evident in the growing acceptance of the use of such drugs as marihuana and cocaine, but is sometimes also expressed in far too lenient sentences for persons who are trafficking in drugs such as PCP, or cocaine and marihuana.

The widespread availability of drug paraphernalia is symptomatic of this growing social acceptance. If we are to turn this perception around, I can think of no finer place to start than on the corner streets, the head shops and record stores which entice our youth with drug paraphernalia.

While we have taken several steps to encourage states to ban the sale of drug paraphernalia, we are not so naive as to think that by banning drug paraphernalia we will solve the drug abuse problems facing the United States today. It is important, however, that we do everything possible to refute the social acceptance message which displays of drug paraphernalia give to our children and to remove the glamour from an activity which can and does destroy the lives of many people every year.

Drug abuse is not a game, it is not something to be smiled at or laughed about, it is not something to be made attractive and to be accepted.

The adolescent is perhaps the most vulnerable individual to confront this growing social acceptance of drug use in our nation. Statistics can give us only an impersonal understanding of the adolescent drug abuse problem. But for each of the 14,000 emergency room visits and 260 deaths last year associated with PCP alone, there are thousands of mothers, fathers, relatives, and friends who have been affected by this growing problem. The same holds true for 10,000 emergency room visits last year related to marihuana and involving primarily adolescents. The problem is even further compounded by the distress and confusion aroused by extensive marihuana smoking in many of our schools today. The latest survey shows that one in nine American high school seniors smokes marihuana daily. Students attending local high schools in a small city in Illinois estimate that at least 50 percent of their classmates smoke marihuana regularly. In some communities, the teen-agers who have not tried mari-

huana may be in the minority. If the present adolescent drug abuse trends continue, I am afraid we may soon experience an alarming number of emotionally, intellectually, and socially handicapped young people as a direct result of their drug use.

This will be our challenge for the 1980's—to reverse the trend of increasing social acceptance of drug abuse. I think that a strong movement has already begun in this country and throughout the world to begin to reverse the trend of increasing drug abuse and drug use, particularly among adolescents. The most encouraging sign of all continues to be parents and citizens, who become involved in their community and who stand as the best possible solution to the problem of adolescent drug abuse. My years of government service have convinced me that Government, with all its good intentions, can never duplicate community efforts nor inspire the same kind of commitment that is generated by people coming together on their home turf to solve a common problem. Over the past year, I have learned of numerous parent groups springing up across the country—in places like Naples, Florida; Whitefish Bay, Wisconsin; Amherst, Massachusetts; and Atlanta, Georgia; just to name a few. Parents are coming together out of concern for their children's use of marihuana and other drugs—and these parents are taking a stand. To the degree that we are successful in doing this, we will be able to prevent many of these youngsters from evolving into more committed drug users, as young adults who become involved in destructive behavior and criminality.

How do we change the climate for our adolescents? By working in our own back yard—our own local communities. I, therefore, call upon each of you to take 40 hours out of your life during the next 12 months to motivate parents and work together with them and other members of your local community to change the course of the adolescent drug abuse problem in our country today.

The President has asked me to convey to you his firm conviction that this challenge will, once met, resolve one of the world's most serious problems. It is with his sincere appreciation for all you have done to reduce drug abuse in the United States that he looks to you for a renewed commitment to meet this challenge of the 1980's.

The Head Shop Message

Mitchell S. Rosenthal, M.D.

President, Phoenix House Foundation

Testimony before the Select Committee on Narcotics Abuse and Control,
U.S. House of Representatives, November 1, 1979.

Gentlemen, I am Dr. Mitchell S. Rosenthal, a child psychiatrist and the president of Phoenix House Foundation. As you may know, Phoenix House is the nation's largest residential program for the treatment of drug abuse. We have treated nearly 15,000 young drug abusers in the past dozen years. We were among the first to point out the growth of the "head shop" industry and the danger we believe it constitutes—a danger not only to our youngsters but to all of our society.

I'm grateful for the opportunity to share our reasoning with you. And I think it's important to start with an understanding that head shops exist for just one reason: to provide a distribution network for literature, equipment and materials that facilitate or enhance the use of illicit drugs.

Now, I recognize that public attitudes toward illicit drugs are ambivalent. Some drugs are considered more illicit than others, and a great many Americans are now convinced that there's nothing wrong with the use of what they call "recreational drugs"—marihuana, hashish, and even cocaine.

As you well know, both the law and law enforcement policies reflect this ambivalence. And I understand its basis. After all, a sizable portion of the American population smokes marihuana. Many of these smokers, maybe most of them, suffer no obvious adverse effects. But let me assure you, gentlemen—in case you have any doubts—that marihuana is a high-risk habit for youngsters. We keep learning more and more about its physical effects: what it does to the brain, the immune system, the lungs, and the reproductive system. And the physical dangers of marihuana use are far less threatening to our children than the psychological dangers.

In think it's vitally important, if we are to understand the threat of head shops, that we recognize first the real peril that drugs pose to our young. And we've got to start with marihuana, as they do.

For years we have been able to avoid facing up to this reality by looking at selected samples of marihuana-using young adults who have been able to work or study with no apparent ill effects. But

we cannot hope to deal with the problem by focusing on the best outcomes. We must look at the worst and see that few adolescent users can avoid the penalties of regular use. We must recognize the drug, as one young Phoenix resident has described it, as "stupid making."

And I am not talking now about the possibility of irreversible brain damage. I'm talking about the reality of nearly irreversible immaturity, about intellectual loss, about the failure of young marihuana users to grow and learn and develop as they should.

We know how regular use of marihuana affects attention span, concentration, and memory. We have evidence today of short-term memory loss so great that youngsters can even forget their own birth date. We have seen the decline in intellectual performance of heavy users and even regular users. But even these effects are not nearly so significant as the psychological changes that are the result of steady marihuana use for many if not most school-age children. Smoking pot in adolescence prolongs adolescence. It inhibits maturity. Young users psychologically regress toward infantilism.

During a time when youngsters must begin developing adult means of dealing with their own needs and with the needs of others, they become increasingly self-absorbed. While they should be acquiring the discipline that allows them to defer pleasure, they return to an almost infantile expectation of immediate gratification. At the very time when they most need to consider long-term goals, they are operating in a time-frame of days or hours.

To grow, to develop, to achieve adulthood, adolescents must cope with the emotional storms and squalls of the troubled teen-age period. If they turn to marihuana or to alcohol or to other drugs to relieve the anxieties of the moment, then they establish a pattern of escaping rather than dealing with reality. They do not cope and they do not learn how to cope. They blow away their troubles in a cloud of smoke, and they blow away their

Now, I'm sure that head shop customers include large numbers of adults. But if you imagine these stores are off-limits to kids, you're in for a big disappointment. I've seen youngsters in just about every one of the more than twenty head shops I've visited. Phoenix House is only one of the local agencies that has sent out children as young as twelve and thirteen to make purchases at these emporiums. And I have yet to hear of anyone being turned down.

But what I have heard, and frequently, is how youngsters are approached in or near these shops by dealers. They want to know if the kids are interested in something a little more potent and a little less legal than the imitation marihuana, the mock pot, that head shops stock.

Finally, gentlemen, let me touch on the most lethal commodity that head shops deliver. It's a message, a message that youngsters all over America are getting and believing. It says, "Getting high is okay." It is sanctioned by publishers, businessmen, and the free enterprise system. The getting-high business holds a rightful place besides the pharmacy, the book store, and the super-market in our shopping centers and malls.

We can spend additional millions on drug prevention and education. We can mount public service advertising campaigns on TV until anti-drug announcements outnumber cat food commercials. And there's no way we can combat the head shop message: "Drugs are all right"—"Getting high is normal." That is what our kids are seeing, and hearing, and believing.

Gentlemen, I am not presumptuous enough to suggest solutions. I recognize the issue may not be quite so clear-cut from your point of view. But we cannot forever have it both ways.

I do not believe our society can extend the privilege of smoking marihuana at minimal criminal risk without having kids smoke. I do not believe we can glamorize drug use as we have without giving it an almost irresistible allure.

I do not believe we can guarantee press freedom to publications that proselytize for drugs without influencing millions of youngsters.

I do not believe we can permit head shops to enjoy the benefits of fair trade and free enterprise without creating a nexus for drug abuse in every community.

I do not believe we can permit all this, condone all this, sanction all this, and then tell our children—with a straight face—that they shouldn't use drugs.

Proposal For The Control Of Drug Paraphernalia

I see the paraphernalia industry as a multimillion-dollar business that facilitates and glamorizes drug use. It preys on the drug fantasies, real and imagined, of our youth. I see the paraphernalia industry as one which panders to youth, one which sends messages to them that run counter to everything else that we have taught them about drugs. The unrestricted, blatant sale of all types of drug paraphernalia is confusing to our youth. They must contend with the paradox that the devices to administer the controlled substances are legal but the controlled substances are not. Frankly, as an adult, as a parent, I have no explanation.

The paraphernalia industry, by its very existence, by selling a variety of implements designed for use with controlled substances, is condoning—even advocating—the use of illegal controlled substances which have been deemed by the Department of Health, Education, and Welfare (HEW) to be harmful to the user.

For example, the paraphernalia industry's bread and butter are the devices used with marihuana. Yet we know that marihuana is not safe. Dr. William Pollin, Director of the National Institute on Drug Abuse (HEW), has recently testified before this committee that marihuana use does impair learning, memory, and intellectual performance, and driving and other motor skills. We know that our young people especially suffer from the physiological effects of marihuana. But we allow the paraphernalia industry to thrive and flourish. In short, the paraphernalia industry fans the fire of the growing drug abuse problem. The need for restriction on the availability of the merchandise is clear. There are between 15,000 and 30,000 "head shops" nationwide, in addition to the many stores selling paraphernalia as part of their stocks and the myriad of tables and booths we see set up on our city streets.

The Drug Enforcement Administration has lim-

NAOCS CONTROL DIGEST

EXHIBIT B

DEA
LIBRARY

JUN 12 1980

An Independent News Summary
& Information Exchange

Vol. 10 No. 12

June 11, 1980

Page 1

PROXMIRE: SOME BANKS "ADDICTED" TO DRUG MONEY

* * * * *

"Laundromat" Operations Filter Money To Foreign Corporations

So many billions of dollars in drug profits are flowing through Miami that some banks have become "addicted" to the cash, Sen. William Proxmire (D-Wis.) charged on June 5.

"Miami is virtually drowning in cash from drugs," the chairman of the Senate Banking Committee said during hearings on the effect of south Florida's \$7 billion annual drug trade.

Although all other areas of the country report a shortage of currency, an estimated \$6 billion in surplus cash bundled up by Miami banks and sent to the Federal Reserve this year "is at least twice as large as the surplus reported in all other fed offices combined," said Proxmire.

(See BANKS, page three)

Special Report

DEA LEGAL COUNSEL OFFICIAL EXPLAINS PARAPHERNALIA ISSUE

By Harry L. Myers
Office of Chief Counsel
Drug Enforcement Administration

There is a growing body of evidence from community service groups, law enforcement officials and the medical profession, that the commercial availability of so-called "drug paraphernalia" promotes drug abuse, especially among the young.

Certainly, no one believes that drug paraphernalia is the cause of drug abuse; the problem is far too complex to have a single cause. But the open sale of drug paraphernalia obviously mocks our drug laws, mocks our drug prevention programs, and mocks our drug education programs. How can any society encourage respect

(See LAWS; page five)

IN THIS ISSUE

SENATE HEARINGS: Miami Banks Drowning In Drug Cash	1
DEA Legal Counsel Says Paraphernalia Laws Are Constitutional	1
California Chief Comments On The Paraphernalia Issue	2
McDONALD'S: Going Out Of The Free Paraphernalia Business	2
Arizona DPS Bolsters Drug Task Force	7

BELIEVE IT OR NOT: Coke Bust Suspect Posts Million-Dollar Bond	7
ARREST/CONVICTION REPORT	7
Illegal Evidence Restrictions Eased	9
MIDWESTERN STATES: Initiating A Joint Task Force	10
South Carolina Builds A Free Air Force	10
JOBS AVAILABLE: Dallas Police Need Help	11
ACROSS THE NATION	11

670

The unprecedented flow of drug money laundered here attracted national attention last year when the Federal Reserve Bank of Miami reported a \$5 billion cash surplus, the largest in the nation.

Two large-scale federal investigations using bank records to identify major drug smuggling organizations are also under way. ■

(LAWS, continued from page one)

for its laws if it allows merchants to flagrantly peddle implements of crime?

Rather than face this question, the paraphernalia industry prefers to challenge the legality of paraphernalia laws. Drug paraphernalia has legitimate uses, they argue; therefore it is protected by some constitutional provision. Merchants are never responsible, they insist, for what a buyer does with merchandise. Paraphernalia comes in so many forms, they explain, that any general description of it in a criminal statute must be constitutionally vague. For these reasons, they warn, drug paraphernalia is beyond reach of the law.

Fortunately, neither common sense, nor legal history, agrees with them. Suppose a merchant began selling Molotov Cocktail "kits" consisting of empty bottles, pints of gasoline, strips of rags, matches, and instructions on how to assemble, ignite and throw the objects. And, suppose Congress passed a law making it a crime to sell or possess "any combination of parts . . . designed or intended for use . . . (as a bomb)." Would the legal arguments of the paraphernalia industry keep this merchant out of jail? Would he be immune from this law because all the parts of his kits have legitimate uses? Could he avoid prosecution by insisting he is not responsible for what his customers do with the kits once they leave the store? Would the law be declared unconstitutional because it is so generally worded and makes no mention of Molotovs?

It should be no surprise that this law already exists in our federal firearms statutes, and that federal appellate courts around the country have rejected these simplistic legal arguments. (26 U.S.C. 5845.)

Similar To Moonshine

Thus far, no merchant has dared to market kits to build bombs, but many have merchandised other implements of crime. Consider the merchant who sets up shop in "moonshine" country. He sells sugar, yeast, grain, copper tubing, heating units, bottles, corks, food colorings, labels — everything a moonshiner needs to illegally make booze. The merchant advises buyers on the kind and amounts of merchandise needed to moonshine, and even gives detailed instructions on building and operating a still.

Although the merchant is selling otherwise legal objects, and although he is not himself a moonshiner, he is subject to federal prosecution for catering to buyers with illegal intentions. For more than sixty years, the federal government has enforced a moonshine paraphernalia law, which makes it a crime to "have or possess any . . . property intended for use in violating any provision . . . (of the liquor laws)." (26 U.S.C. 5686.) Federal courts have repeatedly upheld the application of this paraphernalia law to merchants catering to bootleggers.

These firearms and moonshining provisions are not unique. There are many other federal "paraphernalia" laws. There is a wagering paraphernalia statute that makes it a crime to knowingly carry or send in interstate commerce "any . . . paraphernalia . . . paper, writing, or other device used, or to be used, or . . . designed for use in (a) bookkeeping; or (b) wagering pools . . . or (c) bolita, numbers . . . or similar games . . ." (18 U.S.C. 1952, 1953.)

There is a counterfeiting paraphernalia statute that provides for the confiscation of "all counterfeits of any coins or obligations or other securities of the United States . . . and any material or apparatus used or . . . intended to be used, in the making of such counterfeits . . ." (18 U.S.C. 492.)

There is a wiretapping and eavesdropping paraphernalia statute which makes it a crime to willfully send through the mail "any . . . device, knowing, or having reason to know that the design . . . renders it primarily useful for the . . . surreptitious interception of . . . communications . . ." (18 U.S.C. 2512.)

There is an illicit tobacco paraphernalia statute that provides for the confiscation of "all property intended for use in . . . (the illicit production and distribution of tobacco products)." (26 U.S.C. 5763.)

"Law Is Constitutional"

These are just a few of the implements of crime statutes contained in the United States Code. Each of these criminal provisions is written in general terms. Each has been applied to innocent property when the person in control intended to violate the law, or intended to cater to a violation of the law. Each can be applied to suppliers and merchants. And each has been upheld as constitutional by the federal courts. Paraphernalia, of one sort or another, has been around for a long time. Drug paraphernalia may be a new phenomenon, but the general problem of paraphernalia has always been with us.

In perspective, merchants promoting the sale of objects for illegal uses are within reach of the law. A properly drafted paraphernalia statute is constitutional and can be aggressively enforced. The Drug Enforcement Administration believes its Model Act, drafted at the request of the White House, will withstand constitutional attack, and will effectively outlaw commercially available drug paraphernalia.

The Model Act relies upon the same key legal phrases found in other federal paraphernalia statutes. It defines drug paraphernalia as any equipment, product, or materials actually used, or intended for use, or designed for use, essentially to make, package, test, store, or use illicit drugs. It contains examples of the most common forms of paraphernalia. It even outlines the relevant factors courts have looked at over the years to decide if an object is an implement of crime.

The Model Act goes on to prohibit the possession, manufacture, sale, or advertisement of drug paraphernalia, provided each activity is accompanied by certain forms of guilty knowledge, or guilty intent.

To date, ^{5 + 7 +} ~~only two~~ courts have considered the Model Act. On March 19, 1980, a three judge federal appeals court recommended the Model Act to a Minnesota community whose local ordinance

was found to be unacceptable. In *Geiger v. The City of Eagan*, the United States Court of Appeals for the Eighth Circuit said;

"We consider the ordinance (of the City of Eagan) unconstitutionally vague The City of Eagan clearly has the power through a properly drawn ordinance to discourage the availability of drugs and the acceptance of drug use by prohibiting the sale of drug-related devices. See for example, the Model Drug Paraphernalia Act, drafted by the Drug Enforcement Administration, U.S. Department of Justice, August, 1979. (Eagan's law) is not such an ordinance."

One month later, in the case of *Record Revolution v. The City of Parma*, the Model Act met its first direct challenge. On April 14, 1980, Judge John M. Manos of the United States District Court in Cleveland, Ohio, declared the Model Act to be constitutional in virtually every respect, and he denied a permanent injunction against its enforcement.

Judging from the legal history of our firearms laws, moonshining laws, wagering laws, wire-tapping laws, counterfeiting laws, and hundreds of other similar provisions, these two court decisions are only the beginning; the Model Act will survive in the courts.

DEA strongly supports the passage of legislation similar to the Model Act. Selling bongos, unlike selling Molotov Cocktail kits, may not pose an immediate threat to the safety of society. But the long-term danger is just as real, the potential harm is just as great. Commercially available drug paraphernalia tells kids that drug abuse is okay.

Headshops send the message that drug abuse is the "in" thing to do. No community can afford the price it will eventually pay for the products and the message these merchants are selling. ■

Copies of NARCOTICS CONTROL DIGEST are available for seminars, workshops, conferences. Make requests at least one month in advance. There is no charge to subscribers for this service.

GOOD MORNING. MY NAME IS BILL BAKER. MY RESIDENCE IS LAS VEGAS, NEVADA. I AM HERE THIS MORNING TO SPEAK IN SUPPORT OF AB 148, WHICH WOULD BAN THE PROMOTION AND SELLING OF DRUG PARAPHERNALIA.

I REPRESENT A COMMUNITY BASED ORGANIZATION CALLED CHRISTIAN COALITION. THIS COALITION IS COMPRISED OF A BROAD SPECTRUM OF PROFESSIONAL AND NON-PROFESSIONAL PEOPLE, MEN AND WOMEN, WHO COLLECTIVELY ARE CONCERNED OVER MANY ISSUES FACING THE CITIZENS OF NEVADA, AND IN PARTICULAR, THOSE ISSUES INVOLVING OUR YOUNG PEOPLE.

WE ARE CONCERNED AT THE CONTINUING DECAY OF BOTH OUR STATE AND OUR NATION AS REPEATED ASSAULTS ARE LAUNCHED AGAINST THE VALUES, ETHICS AND STANDARDS OF BOTH OUR CHILDREN AND THE FAMILY UNIT.

I DOUBT WE MAY BE DISMISSED ANY LONGER AS SIMPLY "OLD FASHIONED", FOR THE PATHWAY OF HISTORY IS LITTERED WITH THE BONES OF DEAD CITIES, STATES, AND FALLEN EMPIRES. I WOULD REMIND YOU THAT WHEN ALARIC'S GOTH'S FINALLY Poured OVER THE WALLS OF THE GREATEST NATION EVER IN THE HISTORY OF THE WORLD, IT WAS NOT THAT THE WALLS OF ROME WERE TOO LOW TO REPEL THE INVADERS, RATHER IT WAS ROME HERSELF WHO WAS TOO LOW.

WE ARE CONCERNED THAT UNCHECKED MATERIALISM, TIMID LEADERSHIP, LEGALISM WITHOUT MORAL VALUES ADD UP TO A STATE OR SOCIETY THAT HAS LOST THE WILL TO SUSTAIN AND INAUGURATE THE HIGH AND NOBLE

PRINCIPLES OF REASONABLE ETHICS AND GREAT MORAL TRUTHS. AB 148
WIL HELP END THE HYPOCRISY OF SAYING "DO AS WE SAY, NOT AS WE
DO".

NO DOUBT YOU WILL HEAR FROM SOME THIS MORNING WHO WIL INSIST
THAT THE REAL DECISION YOU FACE TO PASS OR DENY THIS PROPOSED
BILL MUST BE DETERMINED PURELY BY INTERPRETATION OF OUR EXISTING
LAWS AND STATUTES. BUT I CAUTION THAT A GREAT DEAL MORE MUST
BE CONSIDERED IF A JUST AND EQUITABLE DELIBERATION IS TO BE
MADE BY YOU WE HAVE ELECTED TO SO REPRESENT US.

TOO MANY PEOPLE FEEL IF A CONFLICT IS SOLVED ACCORDING TO THE
LAW, THEN THE SUPREME SOLUTION HAS BEEN REACHED. IT IS POSSIBLE
TO BE CORRECT FROM A LEGAL PERSPECTIVE, AND STILL BE INCORRECT
AS TO ADVANCING THE TRUTH OF A PROPOSITION. ONE CAN BE LEGALLY
"RIGHT" AND URGE RESTRAINT, A WILLINGNESS TO CHOOSE TRUTH
RATHER THAN THE LETTER OF THE LAW.

TO ILLUSTRATE MY POINT, NEARLY ALL OPERATE AT THE EXTREME LIMIT
OF LEGAL FRAMES. WE LANGUISH IN THE GREATEST ENERGY CRISIS IN
THE HISTORY OF OUR NATION, YET AN OIL COMPANY IS BLAMELESS WHEN
IT PURCHASES AN INVENTION OF A NEW TYPE OF ENERGY IN ORDER TO
PREVENT ITS USE. A FOOD PRODUCT MANUFACTURER IS LEGALLY
BLAMELESS WHEN HE POISONS HIS PRODUCE TO MAKE IT LAST LONGER:
THEIR PREMISE WAS THAT THE PEOPLE WERE NOT FORCED TO BUY THEIR
PRODUCT.

A SOCIETY WITHOUT ANY OBJECTIVE LEGAL SCALE IS A TERRIBLE ONE
INDEED, BUT A SOCIETY WITH NO OTHER SCALE BUT THE LEGAL ONE IS

NOT EVEN WORTHY OF MAN. A SOCIETY OR GOVERNMENT BASED ON THE LETTER OF THE LAW AND NEVER REACHING ANY HIGHER IS TAKING VERY LITTLE ADVANTAGE OF THE HIGH LEVEL OF HUMAN POSSIBILITIES. THE LETTER OF THE LAW IS TOO COLD AND FORMAL TO HAVE A BENEFICIAL INFLUENCE ON SOCIETY. PERHAPS IT IS TIME TO DEFEND NOT SO MUCH HUMAN RIGHTS AS HUMAN OBLIGATIONS, WHICH INCLUDES MORAL OBLIGATIONS TO FUTURE GENERATIONS OF OUR YOUTH.

DESTRUCTIVE AND IRRESPONSIBLE FREEDOM HAS BEEN GRANTED BOUNDLESS SPACE AND THE LIBERTY TO PROPAGATE MORAL VIOLENCE AGAINST YOUNG PEOPLE IN THE FORMS OF THE GLAMORIZATION AND COMMERCIALIZATION OF DRUG USE, ABUSE, AND PARAPHERNALIA.

YOU WILL UNDOUBTEDLY BE TOLD TODAY THAT THE RIGHT TO MANUFACTURE AND SELL DRUG PARAPHERNALIA IS NOT EVIL; YOUNG PEOPLE HAVE THE RIGHT NOT TO BUY OR USE THE PRODUCTS FOR CHEMICAL ABUSE. BUT MANY YOUNG PEOPLE HAVE BEEN DIRECTLY LED TO A LIFE OF DRUG ABUSE AND SOCIETAL DYSFUNCTION AS A RESULT OF THE SO-CALLED "HARMLESS" GOODIES SOLD BY THE HEAD SHOPS, OWNERS, ETC.

NOW I AM TALKING FROM A PERSONAL PERSPECTIVE. I DIRECTED A NATIONAL DRUG COUNSELING PROGRAM WITH OVER THIRTY CENTERS ACROSS AMERICA FROM 1970-1978. I CAN TELL YOU THAT NO HEROIN USER (JUNKIE) I HAVE EVER KNOWN BEGAN HIS DRUG CAREER SHOOTING OR MAINLINING HEROIN..THEY ALL GOT TO THAT POINT SOMEHOW. HOW? BY CASUAL USE AND ABUSE OF MARIJUANA, HASH, COCAINE, ETC. HERE IS ENOUGH REASON TO BAN THIS GARBAGE ONCE FOR ALL.

I HAVE PERSONALLY BURIED A NUMBER OF YOUNG KIDS WHO HAVE DIED FROM DRUG OVERDOSE AND ADDICTION. I ONLY WISH THAT EVERY LEGISLATOR, AND ESPECIALLY EVERY HEAD SHOP OWNER AND THEIR FAST-TALKING LAWYERS, COULD HAVE STOOD AT THE BEDSIDE OF A DYING 13 YEAR OLD WHOSE VEINS HAD COLLAPSED FROM INJECTIONS OF DRUGS... WHOSE YOUNG BODY WAS COVERED WITH ABSSESSES AS A RESULT OF POOR QUALITY DRUGS AND UNCLEAN PARAPHERNALIA. ALL I COULD DO WAS HOLD HER HAND AND WATCH HER DIE, THEN BURY HER ONE DAY LATER. THIS IS THE REALITY OF DRUG ABUSE.

MANY OTHER STATES HAVE ALREADY PASSED SUCH BILLS TO PROTECT THEIR YOUTH...TODAY'S KIDS ARE TOMORROW'S WORLD..AND SOME OF THOSE BILLS HAVE BEEN TESTED IN COURT AND HAVE WITHSTOOD THE CHALLENGE.

YOU ARE TO BE COMMENDED FOR CARING ENOUGH TO CONSIDER DRAFTING THIS BILL. NO DOUBT YOU WILL BE HEARING A GREAT DEAL OF LEGAL, LIBERAL RHETORIC EXPURGATING THE HEAD SHOPS AND THE SELLING OF PARAPHERNALIA, AND THEIR INHERENT RIGHT TO DO BUSINESS IN A FREE DEMOCRACY, WITH LITTLE REGARD FOR THE ACCOMPANYING PATENT RESPONSIBILITY. BUT MAY YOU NOT FORGET THAT THIS STATE, INDEED THIS DEMOCRACY, HAS AS ITS FIRST AND BASIC CALL AND OBLIGATION, THE RESPONSIBILITY TO SO GOVERN AND LEGISLATE AS TO PROTECT AND PRESERVE THE FUTURE OF OUR COUNTRY, AND THAT FUTURE IS TOTALLY EMBODIED WITHIN OUR YOUNG PEOPLE.

WE ASK YOU TO STAND, WITH THE COURAGE OF PERSONAL CONVICTION, AGAINST HYPOCRISY. I CAUTION YOU IT WILL TAKE COURAGE TO PASS THIS BILL, DUE TO THE TREMENDOUS FINANCIAL GAIN REALIZED FROM

BOTH THOSE WHO MANUFACTURE DRUG PARAPHERNALIA AND THE HEAD SHOPS WHO SELL IT TO OUR OWN CHILDREN IN OUR OWN COMMUNITIES. THOSE INVOLVED IN THIS EXPLOITATION OF AMERICA'S YOUTH WILL NOT EASILY FOREGO SUCH LUCRATIVE INCOME, DESPITE THE CLIMBING MENTAL AND PHYSICAL DEBILITATION OF OUR CHILDREN WHO ARE TRULY THE VICTIMS OF WANTON GREED, AND CALLOUS, IMMORAL UNCONCERN BY THESE INDIVIDUALS.

HERE IS SOME OF THE GARBAGE GIVEN TO ME BY YOUNG PEOPLE...MANY IN NEVADA. (DEMONSTRATION)

OUR KIDS ARE SATURATED WITH DRUG EDUCATION; MANY LEARN HOW TO USE DRUGS FROM THE FILMS AND EDUCATIONAL PROGRAMS IN SCHOOL. IT IS NOT THE CHILDREN, BUT THE ADULTS AND PARENTS WHO NEED EDUCATION.

I MYSELF HAVE BEEN THREATENED, ETC...WHEEL OF MY CAR, ETC... BUT SOMEONE, SOMEWHERE MUST TAKE A STAND FOR TRUTH, RIGHT, AND HOPE FOR THE FUTURE.

WE RECOGNIZE THAT THIS BILL ALONE CANNOT STOP DRUG ABUSE, BUT WE DO KNOW THAT WITHOUT GENUINE CONCERN AND POLITICAL LEADERS WHO PLACE HIGHER VALUE ON HUMAN LIVES THAN ON HYPOCRITICAL LEGALISM AND TAX MONIES, THIS VICIOUS CYCLE WILL CONTINUE.

THANK YOU.