

HB

693

324A S. Willoughby  
Juneau, Alaska 99801

January 30, 1978

Senator Glenn Hackney  
Senate HESS Chairman  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Houseless  
copy

Dear Senator Hackney:

Thank you for courteously inviting me to testify before your committee today and thanks again for allowing me to appear.

As mentioned to you personally and before the committee, SB 415--and CS SB 415 as well--needs some improvement in its language to bring it into conformity with Ravin vs. State, Alaska 537 P. 2d 494.

In both proposed bills it is Section 1. (d) 4 which runs contrary to that Alaska Supreme Court decision. The Court found that Alaska's constitutional right to privacy (Alaska Constitution, Article I, SS 22) "would encompass the possession and ingestion of substances such as marijuana in a purely personal non-commercial context in the home" and the concurring opinion of two of the five justices would extend the right of privacy beyond the home. Section 1 (d) 4 is in immediate violation of that decision when it attempts to regulate marijuana "in other than a public place, when (his) possession or control is for (his) own use."

It may be argued that the Court in several places mentions that the right to privacy applies to adults in their homes and that Section 1 (d) 4, by referring to juveniles, is not inconsonant with the Ravin decision. Such an argument would be incorrect, for the Court had before it an adult and had no need to speak to the juvenile issue. As the Constitutional provision upon which the Court's reasoning is drawn says "The right of the people to privacy is recognized and shall not be infringed"(emphasis added), rather than saying "the rights of adults to privacy", the Court's reasoning will clearly be applied to juveniles as well. Because the language of 1(d)4 includes the use of marijuana in the home, it will not, on the face of it, stand the test of the Court and it is to no good purpose for the Committee to pass it in its present form.

Insofar as Alaska may have a special interest in regulating the use of marijuana by juveniles, you may not find it wholly inappropriate to consider how other states which have

"decriminalized" marijuana have dealt with the juvenile issue, bearing in mind that few of these other states have a Constitutional privacy provision similar to Alaska's, so that Alaska may indeed be in a unique position.

Section 1 (d) 4 is also open to question as regards the conformity of its penalties with those of Title 4, for minor consuming of alcohol. By its past action, the Legislature seems to have indicated that marijuana consumption by juveniles is a less serious offense than alcohol consumption by juveniles. The Committee--and perhaps the Legislature--may now wish to reverse its assessment and I do not presume to tell the Legislature what to wish for. Still, these two actions seem roughly similar to me and similar penalties do not seem inappropriate.

While I had at first recommended that the penalties for minor consuming of marijuana be raised to those of alcohol, consumption by minors, two considerations prompt me now to suggest that the equality of punishment be achieved by reducing minor consuming of alcohol to that of minor consuming of marijuana.

First, Senator Bradley's hints, near the end of my testimony, are persuasive: a year in jail and/or \$500 seems excessive and, more importantly, unacceptable to the Legislature and the Alaskan people. (I take this hint from Senator Bradley's tone of voice, rather than from his specific words.)

Secondly, it seems that juveniles received special consideration by the State under the theory that their minds are not yet fully formed and that they are not wholly responsible for their actions before majority. Consumption of alcohol (or marijuana) by a minor ought therefore to be a lesser offense--and receive a lesser punishment--than sale by an adult to a minor, for the adult is presumed knowing and the minor is presumed not (assuming consumption of either alcohol or marijuana by juveniles is at all considered an offense). Since the sale of alcohol to a minor is punishable by a maximum of a year in jail and/or \$500, it is clear that minor consuming of alcohol (and of marijuana) ought to be less than that.

You have received testimony that a \$10 parking ticket was sufficient to dissuade a teenager from parking illegally. You have also heard testimony from Commissioner Burton that no civil prosecutions have been conducted under the current statute. Why does not the Commissioner, or other police officer, come forth and ask you to enact a law which will allow minor consuming of alcohol or marijuana to be ticketed in precisely the same manner as a traffic ticket? Since juveniles are to be protected and guided by the state, setting a maximum penalty of \$25 will allow sufficient monetary incentive to violators to change their habits while--particularly if this offense is called a "traffic ticket"--not disqualifying juveniles from later employment with companies or agencies which exclude from consideration of legal offenses by

\* in public or while operating motor- or wind-powered vehicles

prospective employees "traffic tickets of \$25 or less." That such a use of language--that the juvenile had "trafficked" in alcohol or marijuana--should have to be resorted to is a fine point, yet it may accomplish your committee purpose, and that of the sponsor, my good friend, Senator Ray, while still being capable of passage by the entire Legislature. It would be unfortunate to see a friend fall into such error should the Committee attempt to pass the current bill.

I would like to add here that this letter and my testimony before your committee represent my views alone and are not necessarily those of the Juneau Democratic Committee, whose Vice-Chairman I remain.

Again, thank you and the Committee for the courtesies you have extended to me in allowing me to testify.

Sincerely & cordially,



Dr. Joe Sonneman

(~~Doctor of Government~~)

cc: House HESS  
Senator Ray  
Commissioner Burton  
Senator Bradley  
House Judiciary  
Senate Judiciary