

from the CAPITOL

By GOV. GRANT SAWYER



PRIOR TO OCTOBER 6, 1964, in determining eligibility for parole, Nevada parole authorities had followed NRS 213.110, which reads as follows:

"1. The board shall have power to establish rules and regulations under which any prisoner who is now or hereafter may be imprisoned in the state prison and who shall have served 1 calendar year, less good time credits, of the term for which he was sentenced and who has not previously been more than three times convicted of a felony and served a term in a penal institution, or who is imprisoned in a county jail, may be allowed to go upon parole outside of the buildings or inclosures, but to remain, while on parole, in the legal custody and under the control of the board and subject at any time to be taken within the inclosure of the state prison or county jail."

This law provided that every inmate who had not received a sentence of death, life, or "without possibility of parole," was eligible for parole in one year. With respect to "life" sentences, our law specifically provides for parole eligibility in 7 years.

The word "eligibility" should be stressed because, needless to say, most prisoners served substantially longer prison terms than the minimum parole period.

In October, 1964, the Supreme Court held that the statute quoted above did not apply to crimes which carried a minimum term of years as part of the sentence. This construction on the surface seems logical and harmless, but, in fact, it created a chaotic situation.

SOME OF OUR major crimes carry minimum sentences, others do not. Crimes that do not carry minimum sentences but only maximum sentences, that is, "not more than 20 years," were still eligible for parole in one year. A number of crimes carried longer minimum sentences than the major crimes such as first degree murder, first degree kidnapping with bodily harm and prior conviction of 4 or more felonies, all of which carry "life" sentences and are eligible in 7 years.

For example, 2nd degree murder, 2nd degree kidnapping and 3 or more prior felonies have minimum sentences of 10 years, 3 more years than first degree for the same crimes. The middle sentence for rape carries a minimum of 20 years, almost 3 times as long as first degree murder, kidnapping, etc.

It quickly became apparent that over the 100 years of criminal legislation in Nevada, no thought had been given to minimum sentences as the standard for determining the length of imprisonment. The overall result was that minor crimes carried longer sentences than major crimes. This resulted in a potentially explosive situation at the prison and left prison and parole authorities, and judges, in an untenable and irrational position.

IF NEVADA WAS to adopt the minimum sentence as the standard for length of imprisonment, we must first legislate minimum sentences for the dozens of crimes which do not now have them. Secondly, a very care-



HEAD MACKKEY PTA--Officers of newly organized Jo Mackey School PTA check program for coming year following recent election meeting. Front (from left) Mrs. Ruth Bell, secretary; Travis Poole, president, and Mrs. Marene Bryant, asst. secretary. Rear (from left) Principal H. P. Fitzgerald, 2nd vice president; Mrs. Archibald Asberry, 1st vice president, and Melvin P. Johnson, treasurer.

ful study in depth must be made of all crimes in relation to each other, in order to determine the proper minimum sentence. In doing this, the 7-year period for "life" sentences must logically be the starting point. Such a study cannot be made hastily but will be made over the next two years by the legislative counsel working with the judiciary, district attorneys and bar association.

In the meantime, in order to correct the gross inequities which were apparent to every lawyer who was familiar with the matter, as well as to avoid danger to our citizens which could arise from prison break-outs, it was determined to adopt the system followed by federal prisons and a number of states, including California.

It should be made clear that the new parole law in no instance reduces the time of confinement and in most instances extends the time. In every instance, the crimes effected by the bill had been eligible for parole in one year up to October 1964. In most cases then, the minimum is now longer. The "early parole law" tag is an unfortunate and misleading misnomer. It should be more accurately termed the "late parole law."

Many other significant and progressive steps have been taken at the prison and in the field of probation and parole. They are not covered here.

Grant Sawyer

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