

ASSEMBLY JUDICIARY COMMITTEE  
58th NEVADA ASSEMBLY SESSION

MINUTES

May 15, 1975

This meeting of the Assembly Judiciary Committee was called to order by Chairman Robert Barengo on Thursday, May 15, 1975 at the hour of 8:30 a.m.

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

MEMBERS ABSENT: NONE.

Riley M. Beckett, Nevada Industrial Commission, W.K. Stephan, M. D., State of Nevada Medical Association, W. E. Adams, City of Las Vegas, and Ken O'Connell, Las Vegas Chamber of Commerce, were guests at this meeting. See attached Guest Register.

Riley Beckett, General Counsel for the NIC, testified on S.B.339. He was here to oppose amendment to S.B.339, which would add this language: Take out period at the end of Line 24 and insert language to this effect--"notwithstanding any negligence of the employer which was a direct or proximate cause of the employee's injury". The reason that they oppose this is because December 4, 1961 California had a case decision which related to any negligence on the part of the employer. The circumstances of the case and the resultant decision were explained to this Committee. Mr. Beckett referred to several different cases in which the NIC is involved. Because they found a very small part of negligence on the part of the claimant, the NIC could not be reimbursed at all.

Mr. Beckett said that on S.B.339 they are asking to amend this above-mentioned portion, and also to insert the heart bill provisions (A.B.425). This heart bill is concerned with allowing diseases of the heart to be compensable under the statutes. It is an extremely volatile area; however, the courts are broadening it by allowing it for various persons where the causes were related to the individual's employment. This Committee questioned Mr. Beckett.

Chairman Barengo asked Mr. Beckett to read a letter addressed to him from Peter Chase Neumann, Reno attorney, which letter was dated April 22, 1975, and a copy is attached hereto. This letter refers to S.B.339.

Mr. Beckett said that the NIC would like to insure that the actual party who does the wrong, if an action is brought, is the one who eventually pays.

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Mr. Robert Petroni testified on S.B.583, saying that this bill was requested by the Coalition of Clark County Classified Employees, which includes the school district. This authorizes the widow, or beneficiary, to receive certain last pay checks if an employee dies without having to go through a lot of channels. Often, the family needs the money immediately. Mr. Heaney commented that this problem came up when he represented the school district in Washoe Co., and after a length of time passed, he finally authorized the release of certain checks.

Bill Adams, Assistant City Manager of Las Vegas, testified on A.B.786. This bill refers to jam auctions. They wholeheartedly support this piece of legislation. Las Vegas has a great deal of problems with this situation--especially on Fremont St. The future purchaser of the "auctioned" goods is enticed and lured into the place of sale by various means. They pay prices which are not commensurate with the quality and representations of the product. This bill was introduced and modeled after the Atlantic City, New Jersey legislation. They, also, have a huge problem in this area. Various city officials have received many complaints from out-of-state tourists. They feel that passage of this bill will allow their city to have regulatory controls. They tried to do it on a local level, but they lost in court.

Mr. Ken O'Connell interjected from the audience that the reason they lost in court was "restraint of trade".

Chairman Barengo announced that James Bilbray requested to be heard on this bill, and he would be present to testify before this Committee during tomorrow's regular meeting.

Mr. Lowman commented that he was requested to draw up this legislation, and sent it to the bill drafter in December. His particular bill has not come out yet. He elaborated on the problems which Las Vegas faces in regard to these jam auctions.

Ken O'Connell, Executive Vice President of the Las Vegas Chamber of Commerce, commented on A.B.786. They are here in support of the bill. They have a real problem in this area. If these people continue to be successful, they will start moving into other areas of the state. He gave examples of how the people are pulled in off the street. These people can be set up and go to work in 24 hours. The City of Las Vegas and Clark Co. are in an embarrassing situation because they cater to tourists from all over the country, and if these people are "taken", it reflects very badly on them, as well as the State of Nevada.

Jan Stewart testified on behalf of the Las Vegas City Attorney's Office. They receive many complaints on the jam auctions. They have received hundreds of letters from visitors to Las Vegas. Merchants have also complained. This bill is designed to make the auction situation and people running them legitimate.

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Dr. William Stephan was present to report back to the Committee on the medical malpractice insurance situation. He referred to a telegram he thought was sent to the Legislature earlier in the week. Chairman Barengo pointed out that he just this morning received the telegram from Imperial Insurance Company, as well as one from Argonaut Insurance Company. Copies of these are attached hereto.

Dr. Stephan said he spoke to Mr. Van Buskirk yesterday afternoon. Dr. Stephan asked Mr. Van Buskirk which areas of the law are not adequate for the insurance purposes in Nevada, and he said regarding the qualification of internal medicine.

Mrs. Wagner said that the Insurance Commissioner, Dick Rotmann, and the Governor are anxious that this modified position be heard by the full Legislature. Dr. Stephan went on to explain structured settlement.

Chairman Barengo directed Mr. Lowman to get in touch with Dick Rotmann and discuss the situation with him, bearing in mind that this Committee would like to hear testimony from him.

Chairman Barengo adjourned this meeting after a motion and a second.



**Peter Chase Neumann**  
**Lawyer**

136 Ridge St., Reno, Nevada 89501, Tel. [702] 786-3750

April 22, 1975

Assemblyman Bob Barengo  
Nevada State Legislature  
Carson City, Nevada

Re: SB339

Dear Bob:

Just talked to Bill Crowell who represents Nevada Industrial Commission and we agree that SB339 is good law only if the second sentence of the proposed language is eliminated completely.

This would be easily changed and would make the bill's new language read as follows:

*"In any action against an alleged tortfeasor to recover damages for personal injuries or death by wrongful act, neglect or default where the defendant is not the employer of the plaintiff or his decedent, the fact that the plaintiff is or his decedent was entitled to receive or has received benefits from the Nevada Industrial Commission is not admissible in evidence at the trial for any purpose."*

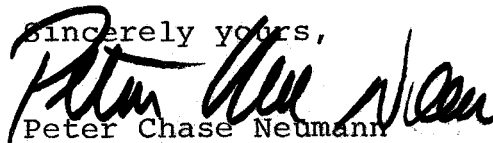
In addition, however, I would continue to urge that the additional language be added, as I pointed out in my January 22, 1975, letter to Senator Raggio:

*"In any common law action brought against an alleged tortfeasor, no benefits payable to the injured person from Nevada Industrial Commission shall inure to the benefit of such alleged tortfeasor."*

At any rate, the second sentence of the SB339 (as reprinted with adopted amendments - 1st reprint) needs to be altered by eliminating said second sentence. Otherwise, the bill could be very confusing and meaningless.

Kindest regards.

Sincerely yours,

  
Peter Chase Neumann

PCN:ow

cc: Mr. Bill Crowell

Arizona Office: 705 Lawyers Title Building, Tucson, Arizona 85701, Tel. [602] 622-8883

Mr. John Riser



Telegram

1116

NY 14 PM 5:29

REA291(1839)(1-D38459A134)PD 05/14/75 1834

TLX SIGNALREIN LSA

ZCZC 002 LOS ANGELES, CA MAY 14

FMS ROBERT BARENGO, CHAIRMAN ASSEMBLY JUDICIARY COMM. DLR INNY  
LEGISLATIVE HALL  
CARSON CITY, NEVADA

REFERENCE ASSEMBLY BILL 569, WE STRONGLY SUPPORT PASSAGE DUE TO  
PRIOR COMMITMENTS UNABLE TO MAKE PERSONAL APPEARANCE. WE HAVE  
STATED UNEQUIVOCALLY BEFORE CALIFORNIA LEGISLATURE, THE STATE  
BAR OF CALIFORNIA AND ANYBODY ELSE WHO WILL LISTEN THAT IN ORDER  
TO REDUCE CLAIMS COST SIGNIFICANTLY, THE INEQUITIES IN THE TORT  
SYSTEM MUST BE CORRECTED. WE HAVE PROPOSED 5 LEGISLATIVE

RECOMMENDATIONS WHICH ARE AS FOLLOWS: (1) STRUCTURED  
SETTLEMENTS, (2) SLIDING SCALE CONTINGENCY FEE SCHEDULE, (3) ADMIT



telegram

COLLATERAL SOURCE BENEFITS AS EVIDENCE, (4) A STATUTORY FORM OF  
INFORMED CONSENT, AND (5) JUDICIAL INSTRUCTIONS SURROUNDING  
"HES IPSA LOQUITUR".

AS A PACKAGE THESE WOULD REDUCE LOSS COSTS 50 PCT AND SHOULD  
RESULT IN PREMIUM REDUCTIONS OF 25 PCT TO 33-1/3 PCT PROVIDED  
RATES ARE ADEQUATE AT THE TIME THE LEGISLATIVE PACKAGE BECOMES  
LAW. AT THE PRESENT TIME THE IMPERIAL'S RATES IN NEVADA ARE  
NOT ADEQUATE. IF ANY PART OF THE PACKAGE DOES NOT BECOME LAW,  
PREMIUMS CANNOT BE REDUCED. WE UNDERSTAND THAT ITEMS (1) AND (3)  
ARE BEING CONSIDERED. (2) IS THE MOST IMPORTANT. IF NEVADA  
LEGISLATURE PASSES ONLY (1) AND (3) NO REDUCTION IN PREMIUM  
COULD HAPPEN, BUT RATES MAY BE STABILIZED FOR THE BALANCE OF THE

YEAR 1975.



Western Union

# Telegram

LARRY HARVEY, SENIOR VICE PRESIDENT  
SIGNAL/IMPERIAL INSURANCE COMPANIES 674232  
NNNN

MGMR NOB RNO  
2-044198E133 05/13/75

ICS IPNRNCZ CSP

4153260900 MGM TDRN MENLO PARK CA 100 05-13 0715P EST  
ZIP



western union

Mailgram



1118

ROBERT BARENGO, CHAIRMAN ASSEMBLY JUDICIARY  
COMMITTEE LEGISLATIVE HALL  
CARSON CITY NV 89701

WE UNDERSTAND THAT THE NEVADA LEGISLATURE IS CONSIDERING AB569. ANY  
LEGISLATION WHICH MIGHT HAVE THE EFFECT OF LIMITING THE AMOUNT OF  
MALPRACTICE AWARDS COULD BE HELPFUL IN ULTIMATELY REDUCING THE COST  
MALPRACTICE INSURANCE.

ARGONAUT INSURANCE CO  
JERROLD V JEROME, PRESIDENT  
MENLO PARK CA

1916 EST

MGMR NOB RNO



Calif  
 Ngaki v Yellow Cab Co decided 3/31/75 - comparative neg in contrib  
 July 1, 1973 - comparative neg in Nevada

372 & 425 agreed to labor management advisory management  
 Oaks, Wally Warren, Paley, Bill Campbell

Witt v Jackson 366 P2d 641 - decided 12/4/61

Witt - operator of City Vehicle  
 Jackson - def - ~~third party~~  
 City of LA - intervened to collect \$ to extent of benefit pd

if claimant (pl in 3rd party action) is found to be  
 contributorily negligent the employer cannot collect  
 or assert his lien to the extent of W/C pd  
 the def (3rd party tortfeasor) could reduce his  
 judgment by the amount of the W/C paid.

Santesteven v Dow Chemical Case No R-2618

Claimant injured March 29, 1970 - complaint filed 1972

Dow Chemical filed 3rd party complaint against Kenneth Cooper - NIC  
 over

Judge Thompson followed Santistevan's - Order June 3, 73

Dept 5 in Remington Case follows Witt - filed April 19, 1973

Dept 3 in Mudary v Warehouse pre July 1, 73 case

"notwithstanding any negligence of the employer which was a direct or proximate cause of the employee's injury."