

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 15, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, on the above date at 9:40 a.m. in Room 415 of the State Capitol Building.

ROLL CALL:

All members of the committee were present. Senator Regan was excused to attend another meeting at 10:00 a.m..

WITNESSES PRESENT TO TESTIFY:

Rep. Ramirez - District 64, Billings
George Bennett - Mountain Bell
Jim Hughes - " "
Les Loble - General Telephone of the Northwest

CONSIDERATION OF HOUSE BILL 320:

Rep. Ramirez from Billings, sponsor of the bill, said that this is the Comparative Negligence Act and explained the bill to the committee. Section 1 deals with the way a jury will handle a comparative negligence case. Section 2 deals with those situations in which a plaintiff files suit and the defendants believe there is someone else who might be liable to the plaintiff. Section 3 deals with a combination of tort defendants. It would not deprive the plaintiff from collecting all of his damages. However, the defendants have to work it out among themselves.

There were no proponents or opponents to this bill present. The committee asked questions of Rep. Ramirez. He suggested an amendment (See Ex. 1) if there was a problem with the mandatory provision. Chairman Turnage said that the committee would take it under advisement.

CONSIDERATION OF HOUSE BILL 497:

Rep. Ramirez, sponsor of this bill also, said that this bill was introduced to resolve a problem in telephone service. 94-6-304 is the theft of service statute. To violate this section the defendant must first obtain the services, then that must be done by deception or other means. It is wrong also to give a credit card to someone who you know is going to obtain the services wrongfully. A new section 2 has been added to correct this.

The first proponent to speak, George Bennett, a Helena attorney representing Mountain Bell, said that the legislature last session tried to do what this bill is doing now. They have found that those people who violate the theft of service statute can be found but cannot be prosecuted.

Jim Hughes, also representing Mountain Bell, said that there are even leaflets out now showing people how to cheat the telephone companies.

Les Loble, representing General Telephone of the Northwest, the next proponent, said that they feel that this is an excellent bill.

DISPOSITION OF HOUSE BILL 497:

Senator Warden moved that HB 497 BE CONCURRED IN. The motion carried unanimously. She volunteered to carry this bill on 2nd Reading.

CONSIDERATION OF HOUSE BILL 763:

Rep. Ramirez explained the bill and said that they are going to offer amendments to it, one of which will clearly place the burden of proof on the plaintiff. (See Ex. 2) He is sponsor of the bill.

There were no proponents or opponents present to testify.

DISPOSITION OF HOUSE BILL 763:

Sen. Towe moved to adopt the attached amendments. (See attachment #1) The motion carried unanimously. However, Senator Roberts moved the adoption of amendment # 9 of the attached amendments. That motion also carried unanimously.

Sen. Towe then moved that HB 763 as amended BE CONCURRED IN. The motion carried unanimously.

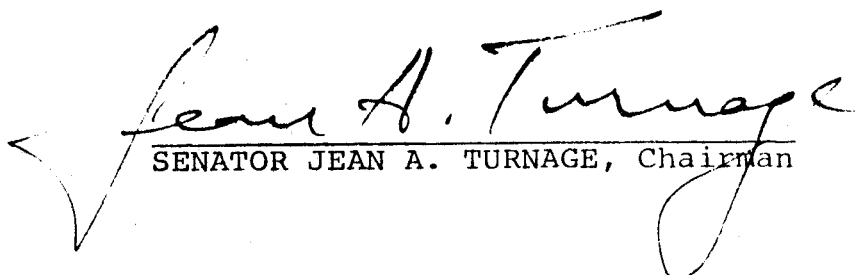
At this time, Senator Turnage was excused to attend a hearing in the House and Sen. Roberts assumed the Chair.

CONSIDERATION OF HOUSE BILLS 28 and 29:

Sen. Warden said that she does not think you can raise the drinking age to 19 when, for all other purposes, 18 year olds are adults.

Sen. Towe moved to amend HB 29 on line 17 by inserting the words "The legislature may prohibit possession and consumption of alcohol by persons under the age of 19." The motion failed. Sen. Warden abstained from voting on the amendment. Senator Lensink said that he thought the committee should hold off acting on this bill until all members were present.

There being no further business, the committee adjourned at 11:00 a.m..


SENATOR JEAN A. TURNAGE, Chairman

Respectfully report as follows. That HOUSE Bill No. 793, The
Third Reading Bill, be amended as follows:

1. Amend page 2, section 2, line 20.

Following: "defendant"

Strike: "is"

2. Amend page 2, section 2, line 21.

Following: "(a)"

Insert: "is"

3. Amend page 2, section 2, line 23.

Following: "debt;"

Strike: "or"

4. Amend page 2, section 2, line 24.

Following: "(b)"

Insert: "is"

5. Amend page 2, section 2, line 25.

Following: line 25

~~XXXXXX~~ Insert: "(c) has the power to dispose of or conceal or remove
from the state property which would be subject to execution; or
(d) is likely to suffer liens or encumbrances on his property
which would be subject to execution;"

~~XXXXXXXXXX~~

6. Amend page 3, section 3, line 16.
Following: "defendant"
Strike: "recovered"
Insert: "recovers"
7. Amend page 4, section 4, line 20.
Following: "(a)"
Insert: "in the case of real property, of his right to attachment
and the necessity for seizure;
(b) in the case of personal property;
(i)"
8. Amend page 4, section 4, line 20.
Following: "to"
Strike: "possession"
Insert: "attachment"
9. Amend page 5, section 4, line 1.
Following: line 25 on page 4
Strike: "(b)"
Insert: "(ii) of his right to attachment and the necessity for seizure
and"
10. Amend page 5, section 5, line 10.
Following: "issued"
Insert: "upon real property or"
Following: "(b)"
Insert: "(ii)"
11. Amend page 5, section 5, line 23.
Following: "(a)"
Strike: "there is no question of fact to be resolved and that"
12. Amend page 6, section 5, line 1.
Following: "(b)"
Strike: "there is no"
Insert: "the plaintiff cannot establish by a preponderance of the
evidence the"
13. Amend page 6, section 6, line 5.
Following: "attachment"
Strike: "shall"
Insert: "may"
14. Amend page 6, section 6, line 7.
Following: line 6
Strike: "must"
Insert: "may"

JUDICIARY COMMITTEE

Date 3/15/17

[illegible]

(Ex. 1)

PROPOSED AMENDMENTS TO HOUSE BILL NO. 320

March 15, 1977

Representative Ramirez

1. Amend page 1, section 1, line 21.

Following: "shall"

Insert: "be required when requested by any party to"

2. Amend page 2, section 1, lines 1 and 2.

Following: "court." on line 1

Strike: lines 1 and 2 in their entirety

JR:1k1

(Ex. 2)

AMEND H.B. 763

THIRD READING

Amend third reading:

1. Amend page 2, section 2, line 20
Following: "defendant"
Strike: "is"
2. Amend page 2, section 2, line 21
Following: "(a)"
Insert: "is"
3. Amend page 2, section 2, line 23
Following: "debt;"
Strike: "or"
4. Amend page 2, section 2, line 24
Following: "(6)"
Insert: "is"
5. Amend page 2, section 2, line 25
Following: "execution;"
Insert: "or
(c) has the power to dispose of or conceal or remove from the
state property which would be subject to execution;"
6. Amend page 4, section 4, line 20
Following: "to"
Strike: "possession"
Insert: "attachment"
- ✓ 7. Amend page 5, section 5, line 23
Following: "(a)"
Strike: "there is no question of fact to be resolved and that"
- ✓ 8. Amend page 6, section 5, line 1
Following: "(b)"
Strike: "there is no"
Insert: "the plaintiff cannot establish by a preponderance
of the evidence the"
- ✓ 9. Amend page 6, section 6, line 7
Following: line 6
Strike: "must"
Insert: "may"

DATE 5-15-77

COMMITTEE ON

VISITORS' REGISTER

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