

'Implied Consent' Author Defends His Bill

By TIM RICHARD
Managing Editor

A House-Senate conference committee in the Michigan Legislature is working on a compromise version of one of the most controversial pieces of traffic safety and civil rights legislation in years.

It's called "implied consent." Its purpose is to give law enforcement agencies another tool for the conviction of drunk drivers—who figure prominently in fatal accidents.

Author of the House version is State Rep. John Bennett, D-Redford Township. A former township treasurer, he is now serving his second term in the Legislature.

Last week we asked about "implied consent"—what it means to the public, what are some of the problems affecting civil rights, what were some of the political problems.

And while we were at it, we talked a little about state tax reform, Republicans and Democrats. Here are the questions and his answers:

Consent To A Test

Q. What does your "implied consent" bill provide?

A. Bennett: "Well, the 'implied consent' bill provides that a person operating a motor vehicle upon a public highway will have been considered to give his consent for purposes of determining the alcoholic content of his blood."

"Under this law, the accused would have the option of taking one of three tests. He could take the 'breathalyzer' test, by blowing into a tube; he could take the urinalysis test, which is also a simple test; or he could take the blood test."

Q. During the debate in the legislature on this bill, a number of objections were raised about procedural safeguards and protection of the person accused. Do you think these objections have been overcome in your bill?

A. Bennett: "I think we have liberalized the bill, and I think we have made it more acceptable to the general public."

"The bill provides for the revocation of a driver's license where the person refuses to take the implied consent test. Now in the debate before the House, the point that was brought out was that this implied consent legislation violates a person's constitutional rights (editor's note: the right not to have to testify against himself). In fact, this was the chief argument against implied consent legislation."

"We believe that this argument is no longer valid."

"In June of 1966 the U.S. Supreme Court ruled that the Fifth Amendment did not apply to a drinking driver; but rather that driving a vehicle is not a constitutional right which can be likened to freedom of speech. It is a privilege which carries responsibility with it."

"Also, the national Civil Liberties Union has come out in favor of implied consent legislation if there are procedural safeguards set up in the bill. I think the bill we have passed (House version) provides for procedural safeguards."

"They are that a police officer cannot stop you on the highway and take your license away from you (if driver refuses to be tested) but rather he has to submit a sworn affidavit to the Secretary of State's office, after it's received, the accused must have a hearing within 14 days; and if he is found guilty by the hearing board, then his license is taken away from him."

"In addition, after this hearing, if a man is found guilty, he still has further recourse in the courts. While this matter is pending in court, he has his license to drive."

More Convictions?

Q. Is there any indication of how many convictions might have been obtained in a year had we had such a law on the books?

A. Bennett: "I'm glad you raised this question. There is no problem more perplexing to law enforcement officers than a drunken driver. And without chemical tests, it is



STATE REP. JOHN BENNETT WITH 'IMPLIED CONSENT' FILE

very, very difficult to prove the person is under the influence of alcohol.

"Without implied consent legislation, police officers, prosecutors and the courts cannot get a conviction in a large percentage of drunk driving cases."

"The Automobile Club Report ('How To Bring More Back Alive') in February indicates that in one Michigan city, 1,051 persons submitted to chemical tests... a 'breathalyzer' test. Of the 1,051 persons, 500 were convicted (for drunken driving); 300 were convicted for reckless driving; and the remainder were found innocent because their cases had been dismissed on technical grounds."

"Also under the implied consent legislation in the State of Missouri, 1,798 drivers were tested with the same test, and 78 per cent were found to be under the influence of alcohol."

"I'm certain that this implied consent legislation will get many, many more convictions and will help to take the drunk drivers off the roads."

Q. How can you convict an accused drunk driver now?

A. Bennett: "Well, the state has the theory of implied consent now. All the police precincts in the City of Detroit have the breathalyzer test, and they do give this test to these (accused or suspected) drunk drivers."

"But the problem is that 56 per cent of those taken to the station refuse to take the test."

"When they refuse, they're let off scot-free, because the police have no other recourse. And this (Bill) would give them the ability—the tool—to get convictions."

Why Democrats Split

Q. When your bill came to a vote in the House, it was favored by 51 Republicans and 20 Democrats and opposed by 30 Democrats and one Republican. Why did the Republicans hold so solid while the Democrats split almost down the middle?

A. Bennett: "Well, I think that historically the members of the Democratic Party have

been out in front when it came to protecting the rights of the individual."

"The Democrats who fought against this bill seem to feel this takes a man's constitutional rights away from him, and also it is legislation that moves toward fascism. Now these are the arguments that were given on the floor."

"They say a man is presumed innocent until proven guilty, but they say this bill reverses the procedure—a man is now guilty until he proves himself innocent. This is their stand."

"I do not necessarily go along with them. Last year, in the State of Michigan, we had 1,200 people—innocent people—killed on our highways because of drinking drivers. I think it's time we started giving these innocent people who are being killed on our highways some consideration."

"Also, I think the procedural safeguards put in this bill will not in any way violate their constitutional rights."

Income Tax Vote

Q. A week ago, House Republicans appeared to reach a compromise, in order to gain some Democratic votes, for their income tax bill. They gained a few but not enough to pass it. Yet, along with most Democrats in the House, voted against this bill. What result did you find with the bill?

A. Bennett: "We Democrats felt that the tax package that was being fostered in the House—the government's tax package—is not based on ability to pay."

"We feel that any tax program in Michigan should be based on ability to pay. Since we cannot have a graduated income tax (under the constitution), we proposed to the Republicans that they change their (proposed) \$600 exemption for each dependent to \$1,200. After weeks of negotiation, we were successful in getting them to change it to \$1,000."

"We Democrats feel this puts some progress into the tax system, in that it does not bear too heavily on the low income groups, and it does not bear too heavily on those who can least afford to pay the tax. Under a

Q. & A.

\$1,000 exemption they agreed to, a family of four would not have to pay any income tax on the first \$4,000 of income—that's one concession they made."

"The other concession they made was that they would raise the corporate income tax rate from 5 per cent to 6 per cent."

"Still, we felt the program the governor originally proposed did not provide any more money for our schools. So we in the suburbs would be called upon to pay for the additional income tax, and after that we would be called upon for additional millage to sustain our present school system..."

"We feel any program must provide more money for schools. We can no longer rely on a local property tax to sustain our school system, because the local property tax is overburdened."

"The other point in question was that the governor's program would increase the tax bite by individuals, homeowners and farmers by \$223 million, while the business community would pay only \$12 million more."

"On a percentage basis, this would amount to 95 per cent on the individuals, homeowners and farmers and 5 per cent on the business community."

"While I do not believe we should tax the business community out of existence, I do believe they should carry their fair share—and 5 per cent is too low."

"Now the program offered by the Republican leadership in the House made the governor's program more inequitable. The net increase under their proposal was \$284 million, while the percentage paid by industry would be 6.4 per cent."

"Presently, the ratio of taxes paid by individuals, farmers and homeowners is 66 per cent and industry is 33 per cent. I don't think the Democrats will ever buy the Republican program which places all the (additional) tax burden on the backs of the homeowners."

"Let me make one point further."

"I believe that we in Michigan should keep our state on a competitive basis as far as taxes are concerned, but I do not believe we should shift the tax burden—and in this case,

Dams Disturb Trout Waters

By GORDON CHARLES
M.U.C.C. Writer

Let's try a little experiment.

Lay your hand out flat and spread your fingers apart. Now, imagine that someone cut off all of your fingers. Your hand wouldn't be very useful, would it?

This illustrates a very real problem all over northern Michigan. Only thing, it isn't with hands and fingers but concerns trout streams and their tributary creeks.

Those tributaries are the places where trout spawn; they will also be all-important if newly-introduced salmon are to spawn successfully. These are the nurseries of a highly important Michigan fishery.

MICHIGAN'S WATER laws, unfortunately, are lax, and this has allowed dam building on tributaries at an almost uncontrolled rate.

Hundreds of these watery "fingers" are being cut off each year by dams which are being built for one purpose or another. The main stream just cannot carry the fish-producing load alone.

practically all of the (additional) tax burden—on the individuals, homeowners and farmers."

Q. What do you calculate the total tax burden would be if Gov. Romney's tax program were passed—the overall breakdown between business and other segments?

A. Bennett: "This would alleviate the present taxing of business from the present 33 per cent of all taxes to about 15 per cent."

Reapportionment

Q. When "one man, one vote" reapportionment was achieved in Michigan, there was widespread belief that there would be a difference in the kind of legislation passed in Lansing. Not only would there perhaps be more Democrats in the Legislature, but the sorts of persons being represented—suburbanites—would see a change in the legislation affecting them. Has this in fact happened?

A. Bennett: "No, I don't think it has. I think 'one man, one vote' had a salutary effect on legislation in Lansing."

"I know here, for instance, in Redford Township, in the past we were restricted—the local government body was restricted—in that it could not build streets under the present laws—it required a petition of 65 per cent signing, which really is extreme, and it should be cut down."

"So now we've had better representation in the suburbs, and we're getting more legislation passed for especially the urban townships which, in my opinion, are benefiting greatly from this."

"Also, we're getting a better type of legislator. In the past, they called the House of Representatives 'the old man's home for retired township supervisors.' When they wanted to retire, why, they'd run for the Legislature."

"This is now passé. We're getting more suburban legislators than we had before. We still have some laws on the books that treat our urban townships as second-class citizens. We have a law which provides, under our justice court system, that we send about \$100,000 a year that we collect in our justice courts to the county general fund. But in the cities they retain this money."

"The reason for that is the cities have had better lobbying in Lansing. So now that we (urban townships) have more representation in Lansing, we will get this legislation passed which will return this money to the township instead of the county."

U-M Team Studying Tires, Roads

ANN ARBOR—Few people would drive 70 miles per hour on a steel-coated expressway.

Yet some may unwittingly be driving under conditions just as dangerous, according to a University of Michigan safety research engineer.

These are people who drive at high speeds on wet roads with little or no tread on their tires.

Bernard J. Brown, research engineer with the U-M Highway Safety Research Institute, and U-M mechanical engineering Prof. K.C. Ludema are studying the interaction of tires with road surfaces, including wet pavements.

"It has found that existing physical research in this area is not yet sufficient to describe the role of tire-road interaction completely."

The investigators also found that the public doesn't generally appreciate the dangers of driving on wet pavements, particularly with worn tires.

The point was brought home dramatically to Brown shortly after he joined the ISRI staff. He accompanied a local police officer to the scene of a crash in which two people died. Their car had smashed into a tree.

"An examination of the tires and the scene of the accident revealed that the driver was operating the car under extremely hazardous conditions," Brown says. "All four tires were bald, and a light rain was falling when the accident occurred."

Aerial survey work is presently in progress in several other counties: Bay, Berrien, Cass, Clinton, Eaton, Genesee, Hillsdale, Isabella, Macomb, Mecosta, Saginaw, St. Clair, St. Joseph, Tuscola, Van Buren and Washtenaw.

Dem Chief Rips O'Neil As Partisan

House Democratic Leader William Ryan has put a "blatantly political" label on criticism fired earlier this week by James P. O'Neil, Livonia Republican and member of the State Board of Education.

O'Neil had criticized legislation Democrats for joining a handful of Republicans a week ago to defeat a state income tax proposal. He charged it would harm education.

Said Ryan: "The Republican tax program which you are so insolently extolling falls drastically short on a most vital requirement—reasonable equity..."

"Gov. Romney's brazen extortion in asking for \$212 million from individuals and only \$12 million from business is surpassed only by the present Republican program which actually uses the tax program to make grants to business while taking more than \$300 million from individuals."

Ryan closed by accusing O'Neil of "promoting a greedy bias for a big business bonanza."



THE CHANGING CAPITOL — How the Capitol Complex in Lansing is changing is illustrated by this Highway Department aerial photo looking west. In the lower right is the Capitol Building. "A" will house the Revenue Department; "B" will be a seven-story Administrative Division office; "C" will be the Highway Department headquarters.

"D" is the Civic Center; it housed the Constitutional Convention and may be the Legislature's temporary headquarters if the old Capitol is torn down and rebuilt. "E" is the Stevens Mason Building, now housing Highway, Conservation and many small agencies. "F" is now a parking lot but will be the site of the State Supreme Court Building and law library. "G" is a privately-owned apartment house. "H" is the U.S. Post Office.

Underground in the block of A-B-C-E is parking space for 2,000 cars. Walnut and Pine streets will be widened. Not shown is the Lewis Cass Building to the south (left).

WANTED

EXPERIENCED SWIMMERS FOR REWARDING SUMMER EMPLOYMENT

We're looking for dependable young men with mature judgment to take full charge of residential community swimming pools in the metropolitan Detroit area from June 24 through Labor Day. If you are a college or graduate school student 21 years of age or older, and you want a good salary, you may be our guy. You'll work from noon to 8 p.m. six days a week (no Thursdays) and have full time life insurance to assist you. You must have a Red Cross Water Safety Instructor Certificate and recent experience as either a pool manager or life guard. If qualified phone Mrs. Nikitin, 357-4300 for interview.