

At Workshop

Lawyers Confront Growing Complexity of Transportation Legislation

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The Transportation Research Board, in cooperation with the Wyoming State Highway Department, sponsored the Twenty-Second Annual Workshop on Transportation Law, in Jackson, Wyoming, July 24-28, 1983. The workshop was attended by 71 lawyers from 29 states and the District of Columbia. The registrants included representatives from the federal government, principally the Federal Highway Administration (FHWA) and the Urban Mass Transportation Administration (UMTA), and from state attorneys-general

Although the workshop had no single theme, several matters were the subject of intense discussion. One was the Surface Transportation Assistance Act of 1982 (STAA). Many features of the Act were examined, such as the requirements in procurement concerning "disadvantaged business enterprises," its "Buy America" requirements, its amendment to the Davis-Bacon Act, and its provisions for block grants relating to mass transit. Participating in the discussions were Donald Ivers, Chief Counsel, FHWA; G. Kent Woodman, Chief

Feature

offices or departments of transportation. Several other organizations involved in transportation legal matters were also represented.

MULTIMODAL PROGRAM

The multimodal workshop program, with its wide array of topics, was the focus of the opening remarks of Leno Menghini, Superintendent and Chief Engineer of the Wyoming State Highway Department, who welcomed the transportation lawyers to Wyoming. Menghini noted that over the past several years there has been increased concern about the impact of the transportation modes on a variety of areas. He observed that the transportation engineer, now more than ever, requires the assistance of legal counsel and that the need for such consultation has resulted in part from the growing complexity of transportation legislation.

Robert Carlson, Chief Counsel of the California Department of Transportation (Caltrans) and Chairman of TRB's Group 4 (Legal Resources), emphasized the same theme. He stated that over the years the workshop program had reflected the change and diversity in transportation law and had shifted from a concentration on real property issues (e.g., eminent domain) to contract, negligence, environmental, and numerous other aspects of present-day transportation law.

Thomas B. Deen, TRB Executive Director, alerted the transportation attorneys to three policy studies of interest to the legal community being undertaken by TRB at the request of Congress. The studies concern the 55-mph speed limit, the impact of double-bottom trucks, and the appropriate standards applicable to highway improvements.



Discussing workshop program are (L-R) Thomas B. Deen, TRB Executive Director; Robert Carlson, Chief Counsel, Caltrans, and Chairman of TRB's Group 4, Legal Resources; and Leno Menghini, Superintendent and Chief Engineer, Wyoming State Highway Department, who later welcomed transportation lawyers to Wyoming.

Counsel (now Acting Administrator), UMTA; Ruth Johnson, Deputy Assistant Chief Counsel-General Law, FHWA; Charles Mosley, Jr., General Counsel, Greater Cleveland Regional Transit Authority; and Robert W. Batchelder, Counsel, American Public Transit Association.

Double-bottom trucks, sanctioned by the Congress in the STAA for interstate and certain designated primary routes, was another subject of considerable discussion. Ivers said that he expected that the route designation for such vehicles would be "in place" by October 3, 1983, and that FHWA was negotiating with those states that had sued FHWA over the issue. A panel discussion on constitutional and regulatory issues arising out of oversize and double-bottom trucks was conducted by Walter McFarlane, Deputy Attorney-General, Virginia Department of Highways and Transportation; Robert C. Schwartz, Assistant Attorney-General, Vermont Agency of Transportation; and Arnold K. Shimelman,

Thomas is TRB's Counsel for Legal Research. He also provided the photos accompanying this article.

Assistant Attorney-General, Connecticut Department of Transportation. Among other things, the panelists discussed their states' lawsuits against FHWA. A somewhat related topic on techniques and the enforcement of laws relating to truck weights and sizes was handled by Watson Arnold, Assistant Attorney-General and Chief, Highway Division, Texas Attorney-General's Office. Arnold discussed how Texas had been successful in obtaining temporary restraining orders and injunctions against truckers, as well as shippers and receivers of the goods, to ensure compliance with size and weight laws.

A third area of particular interest at this workshop was the applicability of standards, guidelines, and policies to highways. Gordon Baca, Attorney, California Department of Transportation, discussed some of the legal issues relating to the admissibility and use at trial of the Manual on Uniform Traffic Control Devices in actions involving claims of negligence signing. Katherine Hall, Attorney, Center for Auto Safety, discussed the Center's legal actions against FHWA over the appropriate standards that are, in the Center's view, applicable to "3R" projects.

Although the workshop's emphasis has shifted in recent years from real property to other legal issues, two topics were devoted to real property. Kenneth Jacobsen, City Solicitor of Baltimore, discussed recent trends in just compensation, and Dudley M. Fowler, Assistant Attorney-General, Texas Attorney-General's Office, discussed several aspects of actions by property owners, so-called "inverse actions," against transportation departments for damages due to drainage and erosion.

Reflecting the multimodal aspects of transportation law, the program also included a panel discussion by two attorneys from Virginia, Francis Cherry, Jr., Special Counsel, Virginia Railway Association, and Walter A. Marston, Jr., Thomas & Fiske, P.C., Counsel, Virginia Coal Slurry Associates, who discussed their respective clients' views on the

Donald Ivers, Chief Counsel, FHWA, addresses current issues in transportation law from the federal perspective.



Robert Cunliffe, Deputy Chief Counsel, Pennsylvania Department of Transportation, presents a paper on the state implementation of the model procurement code.



Deen answers questions regarding TRB policy study being undertaken at Congressional request on the impact of double-bottom trucks.



Gordon Baca of Caltrans discusses legal problems and issues relating to the Manual on Uniform Traffic Control Devices.

legal status and problems associated with coal slurry pipelines. In the aviation field, Clark Onstad, Vice President, Texas Air Corporation, and Vice President, Continental Air Lines, Inc., discussed some of the issues (including whether airport landing rights should be allowed to be purchased and sold by air carriers) that arise in connection with airport access and allocation of gateway and terminal space.

In addition to the various panels and presentations, approximately four hours of the workshop program were devoted to reports, open discussion, and exchange of views by all of the registrants on developments, recent decisions, and new legislation involving transportation law in the attorneys' home states or jurisdictions.

COMING UP

The Twenty-Third Annual Workshop on Transportation Law will be held near Rockland, Maine, at The Samoset, July 22-27, 1984. The program for the Twenty-Third Workshop will be planned at the Group 4 Council Meeting in January 1984 at TRB's Annual Meeting in Washington.



Panel examines constitutional and regulatory issues arising from oversize and double-bottom trucks: (L-R) Arnold Shimelman, Assistant Attorney-General, Connecticut Department of Transportation; Walter McFarlane, Deputy Attorney-General, Virginia Department of Highways and Transportation; and Robert Schwartz, Assistant Attorney-General, Vermont Agency of Transportation.

MEETINGS

TRB Annual Meeting Set; Program Available in November

The 63rd Annual Meeting of the Transportation Research Board will be held January 16-20, 1984, at the Sheraton Washington and Shoreham Hotels in Washington, D.C. Although normally planned for five days (Monday through Friday), it is anticipated that, as in 1983, the meeting will actually end on Thursday evening. Some 1000 papers and presentations will be delivered by transportation professionals from around the world on subjects of interest in all transportation fields including highways, railroads, aviation, and waterways. Participants may expect offerings that deal with research in planning, finance, administration, design, materials, construction, safety, operations, maintenance, law, environment, and energy. Special activities related to the use of microcomputers in transportation, including demonstrations, are planned.

Registration for the Annual Meeting begins Sunday, January 15, at 2:00 p.m., in both hotels. There is no pre-registration. Sessions will begin at 9:00 a.m. on Monday, January 16. An announcement brochure giving information about registration fees and containing hotel reservation forms will be widely distributed by mail in early October.

In recent years, the tentative program for the Annual Meeting has been a feature of the November-December issue of *TRNews*, assuring distribution to several thousand transportation officials and organizations. This year, the extensive distribution will be continued, but the tentative

program and November-December *TRNews* will be produced and mailed as separate publications. This separation will permit an earlier mailing of the tentative program. Persons who normally receive *TRNews* will also receive the separate tentative program. Additional copies of the tentative program may be obtained by sending prepayment in U.S. funds to the Transportation Research Board, 2101 Constitution Avenue, N.W., Washington, DC 20418. The cost is \$5.00 each for domestic orders and \$10 each for foreign orders; both include airmail postage.

On Sunday, January 15, the 17th Annual Workshop on Human Factors in Transportation will be held at the Sheraton Washington Hotel starting at 9:00 a.m. Pre-registration and a special registration fee are required. Additional information about this workshop can be obtained by writing TRB.

Videoconference Session Planned During 63rd TRB Annual Meeting

The Transportation Research Board, in cooperation with the state transportation departments of Iowa, Minnesota, Ohio, and Texas, will conduct a session at the 63rd TRB Annual Meeting as a videoconference. The program will originate in Washington, D.C., Monday, January 16, 1984, at 2:00 p.m. (EST), and will be a three-hour, one-way video, two-way audio presentation involving audiences at receive sites in Iowa, Minnesota, Ohio, and Texas.

The videoconference program on microcomputer applications in transportation will highlight an overview of microcomputer applications in transportation, the productive office, urban transportation planning, ridesharing, traffic engineering, transit operations, design and engineering,