

House Judiciary Committee Meeting
Friday, February 15, 1963

The House Judiciary Committee met Friday, February 15, 1963, in Room 523 at 8:45 A.M. with Chairman Clyde Hill presiding. Fifteen members were present. Members Arthur, Briggs, Davis, Gastl and Krug were absent. Charles S. Fisher, Jr., representing Farm Bureau Mutual Insurance Company; Frank C. Sabatini, representing Kansas Domestic Insurance Company; John Shuart, Kansas Bar Association; William Leonard, Kansas Telephone Association; Frank Mosier, Kansas Farm Bureau and Ray Umbarger, Topeka Medical Center, were present for a hearing concerning Senate Bill No. 140.

Chairman Hill called the meeting to order.

Mr. Hill introduced John Shuart, who spoke briefly concerning Senate Bill No. 140, an act revising the code of civil procedure, and repealing chapter 60 of the General Statutes of 1949, entitled procedure, civil, and all acts amendatory thereof and supplemental thereto as contained in chapter 60 of the General Statutes Supplement of 1961. He presented a brief background of the bill and of the desire and encouragement of the Bar Association for the revision of this code. He stated that the Senate Judiciary Committee and the House Judiciary Committee had made changes from the proposed bill where they thought it was necessary. He pointed out that the Senate Judiciary Committee had made some changes which were material and that he couldn't say the Bar Association now fully supports this bill.

Chairman Hill thanked Mr. Shuart for appearing and for giving his comments and asked who else would like to be heard.

Frank Sabatini introduced himself and spoke briefly concerning the work which went into the proposed bill. He stated that all the Kansas lawyers did receive a copy of the proposed code as the advisory committee and the Judicial Council recommended, but that he now finds there have been some 40 to 70 corrections. He stated that these corrections and changes affect the insurance companies and the public at large and that the public should have the opportunity to find out what the changes are. He stated that he thinks it would be wrong to recommend the public to pass out a bill which they had not had the opportunity to look over and be heard concerning such a bill. He said he has several things which he has found objectionable and which should have some discussion. He pointed out the change in section 60-249, line 22, which said "and shall" and now says "may". He stated that this is a very material change as far as the insurance industry is concerned.

Mr. Sabatini said that page 151 is a somewhat ambiguous extension of the statute of limitations. He stated that it reads 10 years and could be interpreted to read 10 years plus 2 years. He stated that it wasn't there before. Mr. Hatcher pointed out that it was under a different section and was put where it now appears because that is where it belongs.

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Mr. Sabatini also presented his objections to page 208, sections 60-1903 and 60-1904, which raises the maximum limits to \$25,000 plus costs and reasonable funeral expenses. Mr. Sabatini went on to say that if there have been 40 to 70 changes made, he thinks the public ought to have an opportunity to take a look at these changes and have an opportunity to be heard. He stated that this code is a lawyers tool, but affects every person no matter what he does. He said that he thinks it would be better to discuss these objections in the committee and then find agreements so that when it goes out to the House; it will be enacted as law.

Mr. Griffith questioned Mr. Sabatini in regard to just how much of a substantial change and percentage of change there is in sections 60-1903 and 60-1904.

Mr. Sabatini stated that he couldn't say and that it would vary.

Mr. Skoog pointed out that they now have a right to this second cause of action and that this allows to have it settled in one law suit instead of two.

Chairman Hill thanked Mr. Sabatini and recognized Mr. Fisher of the Farm Bureau Mutual Insurance Company. Mr. Fisher stated that he came with no objections to any changes in wrongful death. He spoke briefly concerning the statute of limitations in regard to malpractice suits. He said that it would be impossible for any physician to secure malpractice coverage. He stated that this had nothing to do with streamlining or expediting procedure and was a policy change.

Chairman Hill asked that if this provision were removed if their only other objection would be to special questions.

Mr. Fisher stated that these were their two objections. Mr. Skoog and Mr. Liebert then questioned Mr. Fisher briefly concerning malpractice policies and cases. Mr. Hatcher briefly clarified just what the present Kansas law is in this regard.

Mr. Griffith questioned Mr. Fisher in regard to the possibility of seeing this bill defeated rather than see it passed as is. Mr. Fisher stated that from the insurance companies', lawyer's, and public point of view, he would rather see it defeated.

Mr. Leonard then spoke briefly concerning this bill. He stated that he would rather see this bill passed than defeated, but he would rather see it passed under favorable conditions. He said he thought the people who are affected by this bill should be given a chance to be heard.

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Mr. Fisher again spoke briefly concerning his objections. Members Skoog, Smith and Hill also commented briefly concerning these matters and the improvement in the new code from the present law.

Mr. Sabatini again stated his feelings concerning getting these matters settled in the committee rather than out on the House floor.

Mr. Umbarger spoke of his objections in regard to the statute of limitations concerning malpractice suits.

Chairman Hill thanked the gentlemen for appearing and presenting their objections and views concerning this bill. He then related to the committee the sentiments of the Senate Judiciary Committee concerning this matter.

There was a great deal of discussion by the members of the committee concerning the views which were presented by the gentlemen appearing before the committee.

Mr. Cram moved to delete lines 12 through 19 of section 60-513, page 151, of Senate Bill No. 140. Mr. Van Cleave seconded. Chairman Hill asked for any discussion. Members Euler, Skoog, Liebert, Smith and Hill commented briefly concerning this matter. There were three members in favor of the motion and seven opposed. Motion lost.

Mr. Liebert moved that Senate Bill No. 140 be recommended favorably for passage. Mr. Skoog seconded. Chairman Hill asked for any discussion. There was none. Nine members were in favor of the motion and four opposed. Motion carried.

Mr. Van Cleave explained briefly Senate Bill No. 40, an act relating to sewage districts in certain townships, pertaining to the exercise of the power of eminent domain, amending section 80-2009 of the General Statutes of 1949, and repealing said original section. Mr. Van Cleave moved that Senate Bill No. 40 be amended in section 1, line 10, by striking the period and inserting in lieu thereof a colon and adding the following: "Provided, however, That the governing body of such sewage district shall first obtain the written approval of the governing body of any city of the first class before constructing improvements in such city." Mr. Edwards seconded. Chairman Hill asked for any discussion. Members Skoog and Liebert questioned this and Mr. Van Cleave explained that basically the provisions are the same in the present law. Chairman Hill asked for any further discussion. There was no further discussion. Motion carried unanimously.

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Chairman Hill then spoke briefly concerning Senate Bill No. 1140. Members Skoog, Smith and Liebert asked questions concerning this which Mr. Hill answered. Chairman Hill then thanked the committee.

The meeting adjourned at 9:45 A.M. The next regular meeting will be announced.

Respectfully submitted,
Clyde Hill, Chairman

Minutes approved: