

House Judiciary Committee Meeting  
Tuesday, March 16, 1965

The House Judiciary Committee met Tuesday, March 16, 1965, in Room 523 at 8:45 A.M. with Chairman Jack R. Euler presiding. Fifteen members were present. Members Amrein, Davis, Fatzer, Foster, Hill and Roberts were absent.

Chairman Euler called the meeting to order.

A list of the gentlemen appearing in regard to House Bill No. 749 and No. 854 is attached. Mr. O. A. Witterman spoke for the group in opposition of these bills. Mr. Witterman explained House Bill No. 749, an act providing for the removal of stone, rock, debris, and other obstacles from right-of-way easements acquired for the construction and operation of pipe and transmission lines and for grading the surface thereof; and providing for treble damages and attorney fees to be paid upon violation thereof. He stated that the sixty day provision contained therein is unrealistic. He explained how this bill would operate and stated that it is unnecessary. It would be a repeal of the existing eminent domain statute.

Mr. Bell asked if in a situation where the dirt on top is smooth when they go in, do they remove blocks etc. in the normal course of business. He also wanted to know if they have a remedy under the present law. Mr. Witterman said they do. Mr. Cram asked if there is a great deal of complaint. Mr. Witterman said there is not. He himself has yet to have a law suit over damages. Mr. Griffith asked what period of time they would suggest if they consider the sixty day period unreasonable. Mr. Witterman said they would not like this bill even if it provided for a year.

Jeff Robertson, Pan Handle Eastern, then gave a brief description of his company's operation. He proceeded by reading a portion of the standard contract used by his company. He pointed out that they very seldom have to resort to the eminent domain statute.

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Mr. Robertson then explained House Bill No. 854, an act relating to oil and gas pipelines, and providing for the payment of damages to adjacent owners in the manner prescribed therein. He told of an incident in this regard. He said that this bill would force a settlement for damages before you know what the damages will be. It would be a great hardship on the land owner on the highway that would have to be crossed.

Stanley Garriety concurred in the statements made by Mr. Witterman and Mr. Robertson in regard to House Bill No. 749 and No. 854.

Representative Cubit, one of the sponsors of the bills, spoke in favor of the bills. He stated that he represents the little man. He suggested that House Bill No. 749 be amended on page 1, line 16, by inserting after the word "pipelines" and before the word "and" the following: "or lines for communication or electric power". He continued by telling of the progress of this bill in the last general session. He then told of a case where this would have applied. In regard to House Bill No. 854, he said that possibly a year is unreasonable, but stated that there should be a time limit. There was some discussion by the members of the committee in this regard.

Mr. Bell explained House Bill No. 856, an act authorizing and relating to professional corporations and prohibiting certain activities. He stated that this is simply a bill which allows professional people to incorporate. It would permit them to operate in a more business like manner and possibly in the future, to take advantage of some provisions of the tax law.

Glenn Coulter, Consultants Section, K.E.S.; Paul D. Newcomer, Kansas Engg. Soc.; Gene E. Hefner, Drs. Bowen & Bowen, Don H. Taylor, Hutchinson Clinic; Ray Ungarger, Topeka Medical Center; Charles F. Jarvis, Snyder Clinic Association; James W. Porter, Kansas Medical Clinics Assn.; Walton Goode,

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Hertzler Clinic; Harold R. Schroeder, Schroeder, Heeney, Groff & Spies and R. A. Welsh, Mowery Clinic, all spoke in favor of this bill and concurred in what Mr. Bell had stated. Mr. Goode pointed out that this would make it possible for a young graduate of medical school to come into a group sooner. There are 31 states which have passed this law. At the present time, this law will not cure any attacks by the internal revenue. Mr. Woodworth asked why you could not have a combination of these people. Mr. Goode stated that at present, this would be a violation of their ethics.

Mr. Turner moved that House Bill No. 776, an act relating to certain drugs; prescribing penalties for certain violations concerning such drugs; amending existing K.S.A. 65-2607 and repealing said existing section, be reconsidered. Mr. Coldsnow seconded. Chairman Euler asked for any discussion. There was none. The motion carried unanimously.

Representative Spears explained House Bill No. 773, an act repealing existing K.S.A. 12-201 and 12-202, relating to the liability of cities for the actions of mobs. He stated that this is discriminating against cities. Albert Marten and Joe Bukaty then spoke in favor of this bill. They explained their problem in this regard and told how this is being abused in Kansas City. Mr. Van Cleave pointed out that if this same incident occurs in the county, there is no liability. Mr. Woodworth suggested their problem would be solved if they are given the authority to purchase insurance. There was some discussion by the committee in this regard.

The meeting adjourned at 10:00 A.M.

Respectfully submitted,  
Jack R. Euler  
Chairman

Minutes approved:



Name	Company	Town
Ellis Orr	Servin Pipe Line Co.	Wichita
C. A. Witterman	Rock Island Oil & Ref. Co.	Wichita
Arch Harold	Platte Pipe Line Co.	K.C. Mo.
Bill Nulton	Great Lakes Pipe Line Co.	K.C. Mo.
Ned Williams	Great Lakes Pipe Line Co.	K.C. Mo.
Dan Hopkins	Citrus Servin Gas Co.	Okla. City
Gil Conderson	Northern Natural Gas	Omaha
Frank Thompson	Sinclair Pipe Line Co.	Independence
Webb B. Cooley	Mobil Oil Co.	Dallas
Ivan Arick	Magnolia Pipe Line Co.	Wichita
Mark D. White	Skelly Oil Co.	Florado
L. M. Woodward	Jayhawk Pipe Line Co.	Wichita
Jeff Robertson	Pan Handle Eastern	Topka
Eldon Sloan	Michigan - Wisconsin	Topka
Robert Anderson	Mid Continent Oil & Gas	Attona
Amos Kramer	Kansas Petroleum Industries Committee	Wichita
C. A. Witterman	Rock Island Oil & Ref. Co.	Wichita

## HOUSE BILL No. 773

By Messrs. Spears and Rogers of Riley

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AN ACT repealing existing K. S. A. 12-201 and 12-202, relating to the liability of cities for the actions of mobs.

*Be it enacted by the Legislature of the State of Kansas:*

1 SECTION 1. Existing K. S. A. 12-201 and 12-202 are hereby re-  
2 pealed.

3 SEC. 2. This act shall take effect and be in force from and after  
4 its publication in the statute book.

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**12-201. Liability; what constitutes mob.** All incorporated cities and towns shall be liable for all damages that may accrue in consequence of the action of mobs within their corporate limits, whether such damage shall be the destruction of property or injury to life or limb: *Provided, however,* That the number of persons that shall constitute a mob under this act shall be five or more. [G. S. 1868, ch. 32, § 1; L. 1923, ch. 79, § 1; Feb. 10; R. S. 1923, § 12-201.]

**12-202. Mitigation of damages.** In all actions under section 1 [12-201] of this act, the character, use, or manner of occupancy of the property lost or destroyed, and the reputation and conduct of the person injured and that the city or town used due diligence and care to prevent destruction of property or injury to life or limb, may be shown in evidence in mitigation of damages. [G. S. 1868, ch. 32, § 2; L. 1923, ch. 79, § 2; Feb. 10; R. S. 1923, § 12-202.]