

House Judiciary Committee Meeting  
Tuesday, March 23, 1965

The House Judiciary Committee met Tuesday, March 23, 1965, in Room 523 at 1:30 P.M. with Chairman Jack R. Euler presiding. Eleven members were present. Members Amrein, Bell, Fatzer, Griffith, Hill, Rogers, Turner, Van Cleave and Wilcox were absent. Representative Tillotson was excused.

Chairman Euler called the meeting to order. He explained Senate Bill No. 62, an act directing and empowering the state highway commission to waive its right of subrogation under the workmen's compensation act to certain recoveries made against negligent third parties by an employee of the state highway department, whether such recovery is by judgment, settlement or otherwise. Mr. Sargent read facts relating to Senate Bill No. 62, a copy of which is attached. Chairman Euler asked for any questions. There were none. Mr. Gray moved that Senate Bill No. 62 be reported favorably for passage. Mr. Woodworth seconded. The motion carried unanimously.

Mr. Coldsnow moved that House Bill No. 911, an act to revise the uniform principal and income act, be reported favorably for passage. Mr. Sargent seconded. After some discussion, the motion was withdrawn to enable the members to study the bill further.

Mr. Coldsnow suggested that House Bill No. 851, an act relating to estates of certain decedents, supplementing the Kansas probate code, providing for the dispensing with administration in certain cases, and authorizing the probate court to refuse letters of administration in such cases, be amended on page 2, line 25, by striking the word and figure "four (4)" and by inserting in lieu thereof the word and figure "three (3)". This would conform to the other procedures in the probate code. Mr. Sargent moved that the committee adopt the amendment to House Bill No. 851 as presented by Mr. Coldsnow. Mr. Woodworth seconded. Chairman Euler asked for any discussion. There was none. The motion carried unanimously.

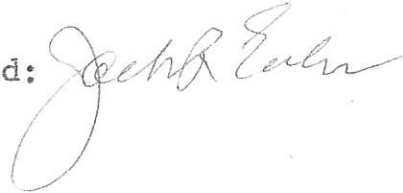
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Mr. Sargent moved that House Bill No. 851 be reported favorably for passage as amended. Mr. Woodworth seconded. Chairman Euler asked for any questions. There were none. The motion carried unanimously.

The meeting adjourned at 2:00 P.M.

Respectfully submitted,  
Jack R. Euler  
Chairman

Minutes approved:

A handwritten signature in cursive script, appearing to read "Jack R. Euler", written over the printed name of the Chairman.

FACTS RELATING TO SENATE BILL NO. 62

Senate bill 62 has been introduced by Senator Joseph Harder primarily to cover the case of John Mitchell, 212 South Western Street, Chanute, Kansas. Mitchell, on February 25, 1963, was a laborer for the State Highway Commission working out of Chanute, Kansas. He was in good health, thirty-seven years old, with a young wife and three young children. He had limited assets and his pay scale was less than \$5,000.00 per year.

While he and another workman were scooping aggregate from a truck onto the edge of the highway, a passing motorist lost control of her car, and although he ran across the highway ditch and to a fence on the west side of the road, the car continued out of control and ran over him. He suffered burns, a fractured skull, a broken neck, a compound fracture of the left ankle, scrapes, lacerations and bruises, and these injuries resulted in quadriplegia so that he is permanently paralyzed from the neck down and permanently and totally disabled. Under the Workmen's Compensation law, he was paid \$4,000.00 for medical expenses and \$38.00 per week for eight years. Of course, he has no cause of action against the state since he was under Workmen's Compensation.

Medical reports indicate that his lifespan was shortened sixty to eighty per cent. To this date, he has spent about \$8,000.00 for medical and it is estimated that from \$15,000.00 to \$20,000.00 in medical care will be required. This does not include the twenty-four hour a day care which his family has given him.

At the time, the Mitchells had no medical or hospitalization insurance, and in addition to John Mitchell's medical problems, they ran into such things as appendectomies with the children and a gall bladder operation is needed by Mrs. Mitchell.

In due time, suit was brought against the negligent third party and this was concluded by a settlement of \$75,000.00 which included \$25,000.00 insurance (total amount) and \$50,000.00 which was one-half of the value of the estate of the husband of the negligent third party. The husband died shortly after suit was filed, and although all of the property had been willed to the children, they agreed that \$50,000.00, which was approximately one-half the

value of the estate, go toward settlement of the claim. There is no question but that damages to Mitchell were much more than this amount, but this was all that could be recovered.

At this time, the State Highway Commission was self-insured. Mitchell requested that they waive their right to recover from his settlement amount the payments made under Workmen's Compensation. The Commission seemed inclined to do this, but doubted that they had legal authority to do so. They suggested that the matter be presented to the legislature and as a result, Senate Bill 62 was introduced.

There are no fees of any kind to be collected as a result of the waiver of the State's right in this case. It would require no appropriation of any kind and the total result of the bill would be that Mitchell and his family would be allowed to keep the \$75,000.00 settlement and not pay from it the amounts paid for medical expenses and weekly compensation already paid or to be paid by the State.