

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

Held in Room 510, at the Statehouse at 2:45 ~~a.m.~~/p.m., on February 12, 1975.

All members were present except: Rep. Mikesic, who was excused.

The next meeting of the Committee will be held at 2:45 ~~a.m.~~/p.m., on February 13, 1975.

These minutes of the meeting held on \_\_\_\_\_, 19\_\_\_\_ were considered, corrected and approved.



Chairman

The conferees appearing before the Committee were:

- Mr. Hugh Kramer, Olathe
- Rep. Carlos Cooper
- Rep. Donn Everett
- Ed Horne, Manhattan
- W. R. McCarter, Kansas State Council of Firefighters
- Rep. Loren Hohman
- Mr. Ken Elder, City of Topeka
- Mr. Richard Cunningham, League of Kansas Municipalities

The meeting was called to order by the Chairman, who introduced Mr. Hugh Kramer on H.B. 2138.

Mr. Kramer testified that he had been in the business of raising and fighting gamecocks for a number of years. He stated that he does not consider cockfighting to be cruel because the birds fight by instinct; that they seek each other out in order to establish their position. He stated that he considers hunting and fishing far more cruel because the hunted has no chance at all whereas the birds fight with a referee. He quoted professors from Oklahoma State University and Kansas State University in the Poultry Science Department, and indicated that they support him in the contention that cockfighting is not cruel and inhuman treatment. He stated that there has never been a problem with this sport since statehood.

Rep. Cooper explained that HB 2159 sponsored by himself and Rep. Everett, deals with reparations for victims of crime; that there had been an interim study and this bill resulted. Rep. Everett stated he joined with Mr. Cooper because of a letter he had received from some people in Hutchinson, wherein they stated that their son had been killed and their financial situation was such that they had difficulty in paying for a funeral, as well as suffering the loss of their son. On the other hand, the person who perpetrated the crime was given legal counsel, a psychiatrist, maintenance and other advantages. He stated he felt this was a good point, and mentioned that the east and west coast areas, as well as Europe, had moved to offer recognition to victims of crime. Mr. Cooper offered a file of source material for committee use.



Rep. Everett appeared on HB 2180, stating that it was introduced by him at the request of the City Attorney in Manhattan. He introduced Mr. Ed Horne, City Attorney, who explained that in Manhattan as well as some other cities there could possibly be a problem in the case of the Firemen's Relief Act; that expenditures of over \$500 must have approval of the attorney for the governing body. In Manhattan, that is the City Attorney. He explained that he is also in a bargaining position with firefighters' unions and that they have had no bad feelings about this, he could see how it might happen. He stated that he felt the firefighters and the unions should have their own representation, and that he opposes the dual role.

Mr. Morris inquired what the cost would be if the Commissioner of Insurance did the reviewing. The Chairman stated the fiscal note shows that they would anticipate the need of an additional attorney and a Clerk Steno II for a total cost of \$21,556 for fiscal 1975. Mr. Horne suggested that spread across the state this is not very significant.

Mr. W. R. McCarter representing the Kansas State Council of Fire Fighters, stated that he has no exception to Mr. Horne's statement and understands his concern, but that he felt all of the mailing back and forth would cause delays, and that he really didn't feel there was apt to be much controversy on this point, and opposed the bill because of the time involved.

Rep. Loren Hohman appeared on HB 2169, explaining that Rep. Mainey had expected to appear, but because of a conflict could not. He explained that firemen are subject to special type injuries that are not covered by Workmen's Compensation, and suggested that the Firemen's Relief Fund provides was more comprehensive for firemen and that this bill would give the units a chance to choose.

Mr. W. R. McCarter testified that they do not wish to be covered under Workmen's Compensation because they believe they are covered more extensively by the Relief Act and there is no reason why cities should have to expend duplicate money.

Mr. Ken Elder of the City of Topeka, states that the duplication costs the city almost \$100,000 per year; that the firemen say they are happier with their own fund. He stated this bill is a cooperative effort on behalf of the Shawnee County delegation.

Mr. Richard Cunningham of the Kansas League of Municipalities testified that the League had reviewed this bill and others from past sessions and in general, the cities are in favor of the bill with possible modification. He stated that they believe there are many instances where public expenditures are being made for duplicate or overlapping coverage, and stated they would like to offer a proposed amendment which will be prepared very soon.

Rep. Feleciano asked if the minutes of February 10th could reflect his vote in opposition to killing HCR 2009; that his volume of mail had caused him to vote in this way. Rep. T. Slattery asked also that his "no" vote be noted. It was then moved that the minutes for February 10 be accepted as corrected, which motion was seconded and passed. The meeting was adjourned.

TESTIMONY BEFORE FEDERAL AND STATE  
COMMITTEE  
ON HOUSE BILL 2159

For Mr. Cooper and Mr. Everett

BACKGROUND

In 1963, New Zealand enacted the first compensation plan for victims of violent crime. Great Britain enacted a similar plan in 1964. Since that time, such a program has been considered in the United States Congress and in more than a dozen states. By early 1969, at least five states (California, Hawaii, Maryland, Massachusetts, and New York) passed legislation establishing a state program offering compensation to victims of violent crimes occurring within their respective states. The California and New York laws were passed in 1966, and were the first of such laws passed in this country.

Although there may be a number of sociological reasons for the passage of laws providing compensation for victims of violent crimes, the basic reason for such laws is that under existing circumstances a victim of a violent crime is usually left strictly on his own in recovering for any loss suffered. On the other hand, once a criminal who commits a violent crime is apprehended, the state assumes full responsibility for his care. This includes the providing of food, clothing, shelter, medical care, vocational training, and in many cases legal assistance in defending the alleged criminal. Yet, the innocent victim of a violent crime who suffers personal injury is left to his own resources; and, if he cannot recover from the assailant, then he must either provide for his own medical, hospitalization and convalescence expenses, depend on members of his family and volunteers, or become a public ward. Traditionally, the only support given by the state to the victim of such crime is the use of the state's courts in an attempt to recover personal damages from the criminal who caused the personal injury or loss to the victim of the crime.

Since 1965, several bills have been introduced in Congress calling for compensation by the federal government to victims of violent crimes, but no legislation has been passed on the federal level. In addition to the five states mentioned above that have enacted legislation providing compensation for victims of violent crimes, bills authorizing such compensation have been introduced in a number of other states, including Illinois, New Jersey, Oregon, Pennsylvania, and Rhode Island. Studies have been initiated in

Illinois, Washington, and Ohio to determine if such a plan is feasible on a statewide basis.

The primary objection to state-financed plans for compensating victims of violent crimes is the speculative nature of the overall cost of such a program. Since such compensation programs are relatively new, most cost figures are still speculative. Listed below is a comparison of cost experienced recently by New York and California in administering the programs of compensation to victims of crime.

(1) New York (population - 18,335,000) - For the fiscal year April 1, 1969 through March 31, 1970, the legislature has appropriated \$1,181,268 to pay for maintenance, operation, and payment of claims. This figure takes into account certain carry overs from 31 death claims and 34 protracted disability claims. These awards are payable monthly, and in some cases for more than a year. Actual claims for the next 12 months are estimated to be \$222,000.

(2) California (population - 19,163,000) - The actual cost for the 1967-68 fiscal year was \$22,411. The cost for the 1968-69 fiscal year is \$105,374, and the proposed budget for 1969-70 is \$127,000.

Obviously, the cost figures for New York and California as reflected above may be minimum figures since many citizens of such states are not familiar with the fact that a state claims system has been established for payment of damages to victims of violent crimes. As the public becomes more familiar with such programs, the cost would be expected to rise.

The following is a comparison in several important areas of the plans adopted in California, Hawaii, Maryland, Massachusetts and New York.

I) Injuries covered . . .

In four states, compensation is limited to personal injury or death

cases. Only in Hawaii is there compensation for property damage and this applies only when the property owner is a volunteer and incurs property damage while attempting to prevent a crime or while assisting the police. The primary purpose in limiting recovery to physical injuries is the reduction of fraudulent claims. It is less likely that a person will submit to physical injury than that the same person will allow his property to be destroyed in order to establish a claim for compensation. Too, this limitation helps to keep costs down and provides compensation only where the claimant's injury would hinder his ability to earn a living. Four of the states allow no recovery for pain and suffering. Again, Hawaii is the lone exception. It is generally felt that such injury is too difficult to measure and that the main purpose of the act is simply to repay a victim for his economic loss, not to repay him on the same basis as would a court in a suit for damages.

#### II) Limitations on awards . . .

Minimum: California and Hawaii have no minimum limitation on claims. Maryland, Massachusetts, and New York each have a minimum limitation of \$100 out of pocket costs, or at least two weeks earnings of the victim.

Maximum: The California act sets a limit of \$5,000. In Massachusetts and Hawaii the limit is \$10,000, and in New York the award may not exceed \$100 per week, or a total of \$15,000. Maryland benefits are in accordance with the Workmen's Compensation schedule of benefits.

#### III) Proof that injury was criminal in nature . . .

In none of the above five states is it required that the criminal be convicted or even apprehended before an award may be made. It is only necessary that the victim be able to present proof sufficient to convince

the compensating authority that an injury has in fact occurred. But it should be noted that if there is any relationship between the criminal and the victim, such as varying degrees of blood relation, any sexual relationship, or if the parties are living in the same household, then the award may be refused.

IV) Administration of program . . .

Initially, administration of the California plan was closely tied with the welfare department. Recently, the administration of the plan has been transferred to the Board of Control. A separate appropriation is made to the Board for the payment of compensation claims. This is similar to the New York method as adopted by Maryland and Hawaii, which uses an independent agency with a three-member board to administer the program. In Massachusetts, the program is administered by the state court system.



# Victim Recounts Kidnap Survival Tale

By De M. Miller

A Member of The Star's Staff

A 23-year-old Vietnam veteran who was shot nine times last October and left for dead in a Lawrence, Kan., field has decided to campaign for legislation to aid victims of crime.

George (Bud) Wilkinson, of Lake of the Forest in Bonner Springs, said innocent victims of violent crimes have no recourse to recover financial losses and hardships they incur.

"It took this ordeal to make me realize the need for a victims of crime bill in this state and throughout the country for that matter," Wilkinson said. "We spend thousands of dollars taking care of the criminal and seem to forget about the victim."

Wilkinson's ordeal began about 11:45 p.m. on Oct. 18 shortly after he had left friends at a bowling alley. Near 41st and Main he stopped his car to offer two hitchhikers a ride.

After entering Wilkinson's car the two men asked him to take them to a bus station. When Wilkinson refused, both men placed .32-caliber pistols to his neck and ordered Wilkinson to drive them to Lawrence.

"I was sure they were going to do something to me," he said. "But all the way I tried to talk them out of it; tried to use logic with them."

When they arrived in Lawrence, Wilkinson said, the two men decided to rob a motel in the northwest part of the city

"They were going to give me a gun and I thought I could use that to get away," he said. "I wasn't going to go through with the robbery."

The men told Wilkinson he would have to shoot the desk clerk as a part of the robbery. When Wilkinson refused they left the motel without even leaving the car.

About four blocks from the motel, Wilkinson related, the men demanded that he perform homosexual acts or be shot. Wilkinson said he told them, "Go ahead and shoot."

"I thought that request was somewhat out of character for them. They hadn't been talking like that," he said. "They made me get back in the car and start driving again."

He was ordered to drive to a secluded spot on the southwestern edge of Lawrence where again he was ordered to perform the acts or be shot. He again refused and the men started shooting.

Wilkinson said he was first shot twice in the left leg, then twice in the hip and once in the back, the bullet passing within an inch of his spine. He said he fell face down on the ground and remained there hoping the men would leave.

He said the men fired four more shots as he lay on the ground striking him in the right side of his face, neck, head and below his left ear.

When he heard the car drive away, Wilkinson said, he ran more than half a mile to a church and started pounding on the door. When he realized it was a church he ran to a nearby apartment complex and awoke the occupants of one apartment.

He said he immediately gave police a complete description of the two men and his car. About 10 hours later an off duty Salina, Kan., policeman spotted the car and arrested the two men.

Howard Rose, 26, of Akron, Ohio, pleaded guilty to kidnaping Jan. 17 and is now serving a life sentence at the Kansas State Penitentiary at Lansing. The second man, Stanley Swistak, 25, also of Akron, was sentenced last week to life imprisonment after pleading guilty.

"People have been telling me all kinds of things that I should have done—run my car up the steps of the police station or into a building or something," Wilkinson said. "I was pretty sure I was going to get hurt; I didn't want to get anyone else involved."

Wilkinson remained in various hospitals about 30 days following the attack. He recovered at his home and now attends Kansas City, Kansas, Community Junior College.

Besides the memory of his violent experience, Wilkinson still carries three of the nine bullet slugs that struck him. He said doctors decided to leave the two bullets in his hip and one at the

base of his brain, Wilkinson said he has not been bothered by the remaining bullets.

Wilkinson now thinks he has waited long enough to begin his campaign for a victims of crime bill. He said he now would be free from criticism of wanting personal gain.

"I suffered greatly financially

as well as from the pain," he said. "I lost my car, lost time at work and the hospital bills still aren't completely settled. But I've survived that storm."

He said some states already have provisions for victims of crimes and other states are considering such legislation. He said he plans to contact Kansas legislators and would start soon with Dr. Carlos Cooper (R-

Wyandotte County), representative from the Bonner Springs area.

"It makes sense if you just think about it. It would benefit society and it would also benefit the individual," Wilkinson said. "The men that shot me are being provided for but I still have to go out and look for another job to regain at least part of what I have lost."



Memory Of Shots

George (Bud) Wilkinson holds a souvenir of misfortune. He picked up two hitchhikers and subsequently was shot nine times. He was wearing shirt which now has bullet hole in it.

(Star photo by John Wozniak)