

M I N U T E S

SPECIAL COMMITTEE ON JUDICIARY - A

June 27-28, 1977

Rooms 514 and 527, State House

Members Present

Senator Elwaine Pomeroy, Chairman
Representative Eugene Gastl, Vice-Chairman
Senator Don Allegrucci
Senator Paul Burke
Senator James Francisco
Representative Doug Baker
Representative Ward Ferguson
Representative Robert Frey
Representative Joe Hoagland
Representative Neal Whitaker

Staff Present

Art Griggs, Revisor of Statutes' Office
Phill Jones, Kansas Legislative Research Department
Paul Purcell, Kansas Legislative Research Department

June 27

Morning Session

Chairman Pomeroy called the meeting to order at 10:00 a.m. and directed the Committee's attention to Proposal No. 36.

Proposal No. 36 - Initiative and Referendum

Ernie Mosher, Executive Secretary of the League of Kansas Municipalities, was the first conferee. He stated that the League was in favor of voters being able to initiate constitutional amendments because the League believes this is a basic public right and officials are used to having voters initiate changes at the local level. He felt that there should be a reasonable limitation on the number of initiative-proposed constitutional amendments appearing on the ballot because of the inability of the public to comprehend a large number of issues. He stated that 60 to 90 days should elapse between the filing of the petition and the referendum.

Deb Harrison, representing the Associated Students of Kansas, stated that ASK is committed to the principle of participatory democracy and that initiative and referendum would further the use of participatory democracy.

Ivan Wyatt, representing the Kansas Farmers Union, said that KFU supported initiative of laws and constitutional amendments.

Roy Jordan, attorney from Emporia, suggested that a statewide referendum would result in excessive litigation because the borderline between administrative and legislative matters is not well defined. He felt that a statewide initiative would serve little purpose and would be used only by special interest groups. He thought advisory elections would be a wise alternative. He noted that mistakes could be made as a result of a referendum and that there should be a device for changing the outcome of a referendum.

Lavina McDonald, Assistant Secretary of State, said that the length, not the number, of petitions determined how many petitions can be placed on a ballot. She stated that signatures can be verified at the present time only at the local level because Kansas does not have a centralized registration system.

The Committee discussed this proposal and decided to limit its study to initiated state constitutional amendments only.

Minutes of the May 27, 1977, meeting were approved.

Afternoon Session

Proposal No. 33 - Court Costs

Art Griggs reviewed a memorandum on this proposal, a copy of which is in the Committee notebooks.

Bob Tilton, Kansas Sheriff's Association representative, said that there had been little problem with the current docket fee arrangement. However, foreign process fees and mileage are problems that need Committee consideration.

Judge James Beasley of the Sedgwick County District Court stated that guardianship and indigency finding fees needed consideration but that clerical work is standard in all counties so fees should also be standard.

Richard Shannon, Court Administrator for Wyandotte County, stated that present fees were quite reasonable but that bookkeeping needed to be simplified as much as possible.

Art Griggs listed various alternatives available. The Committee directed the staff to draft a bill incorporating some of the suggested alternatives.

Proposal No. 31 - Mental Illness Statutes

Ben Farney, former Johnson County Juvenile/Probate Judge, mentioned several areas in need of Committee consideration including the need for a right to counsel and right to cross-examine witnesses on behalf of a minor in a hearing to commit. He stated that the statutes currently do not address the authority of a guardian in a number of situations. He believes that definitions of "mental impairment," "dangerousness," and "overt manic behavior" are needed. In addition, there are no present statutes regarding standards for a finding that a child is retarded, nor are there statutes concerning how a child is placed in, or released from, an institution.

June 28
Morning Session

Chairman Pomeroy called the meeting to order at 9:00 a.m. and directed the Committee's attention to Proposal No. 32.

Proposal No. 32 - Department of Justice

The first conferee was Don Hoffman, Chief Assistant Attorney General. He stated that all state legal staff with the exception of the legal staff of the Revisor of Statutes' Office, the Legislative Counsel, and the Judicial Council attorneys, should be under the administration of the Attorney General. The Attorney General supports Senate Bill No. 223 since it is felt that the bill, if enacted, would result in a reduction in staff, more effective use of facilities, better fiscal planning, higher degree of professionalism, and more consistent application of state and case law.

Charles Hamm, Chief Attorney for the Department of Social and Rehabilitation Services, described the use of attorneys by SRS and the Department's interaction with the Attorney General's Office.

Don Simon, Chief Attorney for the Department of Transportation, stated that the larger agencies needed attorneys who possessed an agency expertise that might not be available under a Department of Justice. He described Transportation's use of attorneys and noted that the only outside counsel employed by the agency was bond counsel.

Duane Roberts, Chief Attorney for the Department of Human Resources, described his agency's situation and stated that there is a waste of legal talent when legal talent is not controlled by lawyers.

Afternoon Session

Proposal No. 35 - Uniform Simplification of
Land Transfers Act

The first conferees were Glee Smith, attorney from Larned and one of the Commissioners on Uniform State Laws, and John McCabe, legislative research director for the National Conference of Commissioners on Uniform State Laws. Glee Smith introduced USLTA and said that the uniform act placed great emphasis on simplification. John McCabe presented an overview of the USLTA pointing out that the lien provisions were the most controversial aspect of the uniform act.

J. Robert Wilson, attorney from Manhattan, stated that the uniform act would create many problems and change real property law remarkably. He felt that adoption of the uniform code would result in confusion and uncertainty in this area.

Susie Parmer, representing the Register of Deeds Association, stated that the Association concurred with Robert Wilson's opinion.

Proposal No. 34 - Uniform Exemptions Act

John McCabe gave an overview of this uniform act. He stated that the act would impose a rational balancing of debtor and creditor interests and would replace only one portion of Chapter 60 of the Kansas Statutes Annotated.

Proposal No. 29 - Product Liability

Mr. Ron Todd, Assistant Commissioner of Insurance, provided the Committee with an update on House Bill No. 2410.

After Committee discussion, the Chairman adjourned the meeting at 4:15 p.m.

Prepared by Paul Purcell

Approved by Committee on:

July 29, 1977
(date)