

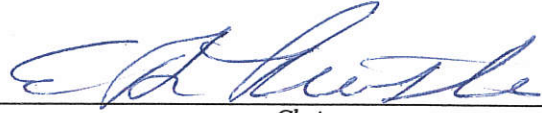
MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

Held in Room 522, at the Statehouse at 3:30 ~~xx~~ a.m./p. m., on March 14, 19 78.

All members were present except: Representatives Gastl, Hurley and Lorentz, who were excused.

The next meeting of the Committee will be held at 3:30 ~~xx~~ a.m./p. m., on March 15, 19 78.

These minutes of the meeting held on _____, 19____ were considered, corrected and approved.



Chairman

The conferees appearing before the Committee were:

Mr. Bud Grant, KACI
Mr. Frank Kennedy, attorney, Denver
Mr. Steve Starr, KPOE, TPD
Representative Charles Laird
Mr. Walt Scott
Senator Simpson
Senator Parrish

The meeting was called to order by the Chairman who introduced Mr. Bud Grant to discuss SB 350. Mr. Grant explained this is a bill which was held over during the interim, and that previous hearings had been held; that it deals with using photographs of property taken in theft cases, and provides for the use of the photographs in court cases, allowing the return of the property to the owners at an earlier date. He introduced Mr. Frank Kennedy with the J. C. Penney Company in Denver.

Mr. Kennedy explained there is nothing in the present law which would prohibit the practice of using photographs, and sometimes it is done in case of perishable merchandise, but there are a number of prosecutors who refuse to allow such evidence without legal direction. Rep. Hoagland asked if this kind of legislation has been enacted in Colorado, and Mr. Kennedy explained it is being done by agreement with the courts, but there is no law directing it.

Mr. Steve Starr with the Topeka Police Department, testified in favor of the bill, explaining they took no position on the matter last year but after researching the matter they support the bill.

Rep. Laird appeared on behalf of a constituent who has had experience with cases of shoplifting where the merchandise was held for such a period as to make it of little value when returned. He urged, on behalf of his constituent, that the committee consider favorable action.

Mr. Walt Scott appeared on SB 866, explaining he was not working on behalf of any client but was appearing for himself. He stated he has about 100 such cases every week in limited actions court, and that he had checked with Judge Hope who told him since July, 1977 there have been only five appeals out of the limited actions division in Shawnee County. He does not feel 30 days is necessary even though it would make it conform to Chapter 60. Mr. Scott noted the problems would occur in a case when \$200.00 is at issue. Ordinarily, they proceed with Aid of Execution and garnishment. If the time was changed to 30 days, it could be dangerous. He urged there was no need to increase the time.

Rep. Hoagland stated he agreed with Mr. Scott; that they have no problems in Johnson County; and does not feel the need of a change. He noted he did receive a letter from an attorney in Wyandotte County asking for the bill. He noted this is one of the three bills which the Chairman had asked him to review.

He explained the only problem he sees with SB 497 is simply a practical one; that after service is obtained the Defendant files an answer and a trial is set, and this allows a request for additional time up to 20 days before the date of trial, and this would delay the setting. He stated the same is true for SB 689 which allows the use of interrogatories in Chapter 61. He stated there would be the same problems with the trial setting, and questioned whether it was proper to incur the types of attorney fees involved in answering interrogatories under what is intended to be a speedy civil procedure.

Mr. Griggs noted SB 863 came from a letter which was sent to the Revisor's office from an attorney in Salina, who explained most statutes were changed because of unification. It was moved by Rep. Heinemann and seconded by Rep. Hayes that the bill be passed and sent to the Consent Calendar. Motion carried.

The Chairman called attention to the fact that HCR 5046 had been sent back to the committee because the leadership felt there needed to be some amendments. He stated there should be a clean-up amendment on the first page and also the second page, but next one deals with Article 11 and the most important would state that a proposed Resolution could not be submitted for ten years once it is rejected. (See balloon amendment.)

It was moved by Rep. Ferguson and seconded by Rep. Baker that the amendments be adopted. Rep. Frey stated he had reservations when the Resolution was passed out and he was glad to see some proposed amendments.

The Chairman noted that Senator Simpson had arrived to discuss his bill, and asked the members to withdraw their motions. They agreed to do so.

Senator Simpson stated that SB 497 relates to a matter which was called to his attention by an attorney in Salina. He explained it seemed fair to him that a Defendant, as well as a Plaintiff, should have the right to submit requests. He noted the District Judges Association seems to feel this might speed up litigation in some instances.

Senator Simpson testified that SB 689 was initiated by Senator Parrish and in limited actions would permit discovery up to ten interrogatories.

Senator Parrish explained he had become interested in the concept in SB 689 after visiting with Jan Hamilton. He displayed a letter from Mr. Hamilton in support of the bill.

The Chairman asked to return to consideration fo HCR 5046. Rep. Frey called attention to language on page 2 which would prohibit the offering an amendment which would institute a new article. (Line forty-eight.) Mr. Griggs expressed the opinion it was worded in this fashion to prevent the amending of more than one section and causing a conflict. The Chairman stated he did not feel the language is restrictive.

Rep. Baker noted he felt this had a lot of problems before it left committee, and moved to table the matter. Motion was seconded by Rep. Heinemann. Rep. Foster stated this was not why the Resolution was sent back to committee. The Chairman suggested it would be his preference to place the matter back in subcommittee and ask Mr. Griggs to work with them. Rep. Foster offered a substitute motion that the bill be reassigned to a subcommittee. Motion was seconded by Rep. Baker. It was suggested there is a parliamentary problem with the motions and Rep. Baker withdrew his original motion with Rep. Foster offering his substitute as an original. Motion carried.

The Chairman appointed Representatives Baker, Whitaker, Roth, Matlack and Foster to serve as a subcommittee. Rep. Foster asked to be relieved of the assignment and Rep. Stites was then appointed. The Chairman asked the subcommittee to report on Monday, March 20th.

The Chairman asked for comments concerning SB 350, and Rep. Stites explained West Virginia is the only state with such a law and feels that Kansas does not need it. It was moved by Rep. Stites and seconded by Rep. Roth that the bill be reported adversely. After extensive discussion, the motion carried 8 yes to 7 no. Representatives Hoagland, Hayes, Whitaker, Ferguson and Frey asked to be recorded as voting in opposition to the motion.

Rep. Foster stated he had voted on the prevailing side, and moved to reconsider the bill. Motion was seconded by Rep. Frey and upon vote, the tally was tied. The motion was declared lost.

It was moved by Rep. Hoagland and seconded by Rep. Gillmore that SB 689 be reported adversely. Motion carried.

It was moved by Rep. Hoagland and seconded by Rep. Stites that section 1 of SB 497 be stricken. Motion carried by a majority, with Rep. Ferguson voting in opposition. It was then moved by

Rep. Hoagland and seconded by Rep. Martin that SB 497 as amended, be recommended favorably. Motion carried with Rep. Ferguson voting in opposition.

It was moved by Rep. Hoagland and seconded by Rep. Baker that SB 866 be reported adversely. Motion carried.

The meeting was adjourned.

HOUSE JUDICIARY

3-14-78

NAME	ORGANIZATION	ADDRESS
Walter Mc Scott	Self	Topoka, KANSAS
Harley D Huggan	Hotel-Motel -	Wichita, K
Steve Starr	Topoka P.D.	Topoka, Ks
Frank Kennedy	J.C. Penney	Denver, Colo
BUD GRANT	KACI	TOPEKA

As Amended by House Committee

Session of 1978

House Concurrent Resolution No. 5046

By Special Committee on Judiciary—A

Re Proposal No. 36

0017 A PROPOSITION to amend article 14 of the constitution of the
0018 state of Kansas by adding a new section thereto, relating to
0019 constitutional amendments initiated by the people.

0020 *Be it resolved by the Legislature of the State of Kansas, two-thirds*
0021 *of the members elected to the House of Representatives and*
0022 *two-thirds of the members elected to the Senate concurring*
0023 *therein:*

0024 Section 1. The following proposition to amend the constitu-
0025 tion of the state of Kansas shall be submitted to the qualified
0026 electors of the state for their approval or rejection: Article 14 of
0027 the constitution of the state of Kansas is amended by adding a
0028 new section thereto to read as follows:

0029 "§ 3. /Propositions for the amendment of this constitution
0030 may be initiated by the people and submitted to the electors of
0031 the state for their approval or rejection at any general election
0032 held in November of an even-numbered year. In order for the
0033 people to initiate a constitutional amendment, the following
0034 requirements for signatures of registered voters on a petition
0035 ~~must~~ be met:

Proposal of amendments initiated by the
people; procedure; power of legislature.

0036 "(a) In each of at least seventy-five (75) counties, there must
0037 be obtained at least the number of signatures that is equal to
0038 ten percent (10%) of the total vote cast in the county for the
0039 office of ~~secretary of state~~ governor at the last election for such
0040 office; and

shall

0041 "(b) The total number of signatures obtained statewide
0042 must be at least equal to ten percent (10%) of the total vote cast
0043 statewide for the office of ~~secretary of state~~ governor at the last
0044 election for such office.

0045 "The legislature shall prescribe the form of the petitions, the
 0046 time and manner of filing petitions, a method for determining
 0047 the validity thereof and publication requirements. An amend-
 0048 ment initiated by the people may amend one or more articles of
 0049 the constitution and related subject matter in other articles as
 0050 necessary to accomplish the objectives of the amendment. Not
 0051 more than five three amendments proposed by initiative shall
 0052 be submitted at the same election. In the event that more than
 0053 five three validly submitted amendments are filed, the five
 0054 three amendments which are filed the earliest shall be sub-
 0055 mitted at the next general election held in November of an
 0056 even-numbered year. The legislature may provide for the
 0057 withdrawal of an initiated amendment by its sponsors at any
 0058 time prior to its submission to the electors.

0059 "If a majority of the electors voting on any amendment
 0060 proposed by initiative shall vote in favor thereof, the amend-
 0061 ment shall become a part of this constitution. If any conflicting
 0062 amendments to the constitution shall be approved by the
 0063 people at the same election, the amendment that receives the
 0064 largest number of affirmative votes shall prevail and in the
 0065 case of a tie vote the constitution, as it was constituted imme-
 0066 diately prior to the election, shall prevail and the conflicting
 0067 amendments shall be of no force or effect."

0068 Sec. 2. This resolution, if concurred in by two-thirds of the
 0069 members elected to the house of representatives and two-thirds of
 0070 the members elected to the senate, shall be entered on the jour-
 0071 nals, together with the yeas and nays. The secretary of state shall
 0072 cause this resolution to be published as provided by section 1 of
 0073 article 14 of the constitution, and shall cause the proposed
 0074 amendment to be submitted to the electors of the state at the
 0075 general election in the year 1978.

the method of determining the sponsors of petitions,

No amendment proposing to repeal or amend any section in article 11 of this constitution and no amendment relating to taxation may be proposed by the people pursuant to this section; otherwise,

If a proposed amendment to this constitution which was initiated by the people pursuant to this section is thereafter rejected at an election thereon, the same or a substantially similar amendment may not thereafter be resubmitted by the initiative of the people until the general election that occurs ten (10) years after the general election at which such amendment was rejected.

a specified percentage of the petitioners therefor

be approved and this constitution shall be changed accordingly

of conflicting amendments