

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

Held in Room 522, at the Statehouse at 3:30 ~~a.m.~~/p. m., on March 23, 1978.

All members were present except: Representatives Baker, Frey, Hoagland and Hurley, who were excused.

The next meeting of the Committee will be held at 3:00 ~~a.m.~~/p. m., on March 27, 1978.

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



Chairman

The conferees appearing before the Committee were:

Rep. Don Crumbaker  
Mr. Dave Starkey, Thomas County Attorney  
Mr. Don Smith, Colby  
Mr. Ernest Kistler  
Mr. Frank Gentry, Kansas Hospital Association  
Ms. Gladys Rollins, Wichita  
Mr. John House, Attorney, Legal Aid Society  
Ms. Cathy Calavillo

The meeting was called to order by the Chairman who introduced Rep. Crumbaker to discuss House Bills 3253 and 3254.

Rep. Crumbaker explained these bills resulted from a hospital situation in Thomas County after a Supreme Court Decision. He distributed copies of the decision, as well as a printed statement of explanation. (See exhibit.)

Mr. Dave Starkey, County Attorney of Thomas County, told the committee they had been working with the Revisor's office and the two bills had been drafted after the Supreme Court Decision. He explained the Thomas County Hospital was established under Chapter 44 of the Special Session of 1938, and he believed it was the only hospital so established under this Act. In 1947, all of the sections were repealed except 19-1856. He stated the law was somewhat unclear and uncertain and before the Board can issue bonds for improvement of the hospital facilities the matter needs to be corrected. That is the purpose of HB 3253.

Mr. Starkey explained the citizens of Thomas County in November, 1976, voted 3 to 1 in favor of issuing General Obligation Bonds for the purpose of constructing a new county hospital, which

election was upheld by the District Court, but which was struck down by the Supreme Court. As a result of the decision, there is no provision for the construction of a new facility, and HB 3254 is intended to remedy that. It provides for the issuance of revenue bonds for either an addition to an existing county hospital or for a new and separate facility. (See printed statement.)

Mr. Don Smith, a former Representative from Colby, testified the county hospital had been leased to the Catholic Sisters for a period of time but a few years ago the county took it back. He explained the law passed in 1938 apparently did not allow the hospital to operate under the present Board of Trustees, and that the proposals will remedy that.

Mr. Ernest Kistler, member of the Hospital Board of Trustees testified in favor of the proposals. (See exhibit.)

Mr. Frank Gentry of the Kansas Hospital Association told the Committee the Kansas Hospital Association is in support of both bills, and further that if there are any other hospitals founded under the 1938 law, they would also be helped by this legislation. (See exhibit.)

It was moved by Rep. Heinemann and seconded by Rep. Augustine that House Bills 3253 and 3254 be recommended favorably. Motion carried.

The Chairman noted there are a number of people present on SB 579 which authorizes civil remedies where there is a divorce or separate maintenance procedure. The Senate amendments on page 4 authorize a 1/4 mill levy to provide shelter for abused spouses.

Ms. Judy Tusink testified her organization supports the bill; that in Shawnee County very little is done for a woman who complains of being assaulted; they are told to wait for three days for a "cooling off" period. She stated what is really needed is a shelter because most of these women have no place to go and no resources to take care of themselves and their children.

Gladys Rollins, Director of the Wichita Womens' Crisis Center, stated their facility is a residential center for deprived and beaten women. In Wichita, she told members, the police department receives over 2,000 domestic calls per month, and about half are matters of family violence. She stated often relatives and friends will turn such women away because they know the man will know where to look for his wife and children and they fear for their own safety. She stated the center has been in operation for 19 months, and it is their experience there are three reasons why women remain in a violent situation--fear of more severe abuse, a feeling of worthlessness and a lack of education which would allow her to support herself.

Ms. Rollins stated they provide emergency shelter, counseling and opportunities for education. The program is supported by HUD funds and grants by the City of Wichita, and they are funded for 1978 and 1979 only. This bill would bring about \$282,000.00 into Sedgwick

County and allow them to serve additional people.

Mr. John House, Legal Aid Society, told the committee he deals primarily with family and domestic problems, and urged the committee to support the bill.

Ms. Kathy Calvillo of the Battered Womens' Task Force, stated that she is in complete support of the bill; that the Governor's Committee on Criminal Administration has given the Topeka group a grant which is only a temporary step and not adequate to do all the things which need to be done. She explained victims need a place to stay and to retain their emotional stability; that currently the Task Force is using volunteer homes but it is impossible to get enough because they only ask volunteers to open their homes three days a month. She explained they have been serving twenty victims a month, and once word filters out she feels that will easily be doubled.

A young Topeka woman appeared before the committee, explaining that she is a battered wife, and has suffered physical abuse, but that the local police can do little in domestic matters unless they see the incident occur. She stated that husbands who abuse their wives and children give them very little money so there no way such people can go someplace else, plus the problem of not being able to go to family and friends because of the potential abuse of those people as well. She stated that even with a restraining order there is no way to stop such abuse and if one presses charges it takes time and bond is usually so low the man will be out within a few hours and the abuse starts all over again.

Rep. Frey inquired if they are meeting with any success in getting revenue. Ms. Calvillo stated they have three or four different funding resources as well as private grants. She pointed out the cost of getting set up is quite large.

Rep. Glee Jones appeared in opposition to SB 506, and offered a printed statement to underline her remarks. (See exhibit.)

Ms. Judy Tusink noted this bill does not equalize rape and sodomy, although she supported moving the section into Article 34.

The Chairman noted there are two juvenile bills which Rep. Lorentz' subcommittee has been working on. In addition, SB 761 is still in committee. Rep. Lorentz stated the subcommittee had already looked at SB 761, and it was really their recommendation that it be placed in interim study along with severance of parental rights, but Senator Parrish has a definite interest in the bill, and he would like personally to use 761 to prevent amendments to SB 553 and jeopardize that bill.

Rep. Lorentz noted they had reviewed the balloon on Senate Bill 553, but since that time Mr. Hamm of SRS has some problems

with the language on page 7. It was moved by Rep. Lorentz and seconded by Rep. Gastl that the subcommittee report be accepted. Motion carried. It was then moved by Rep. Lorentz and seconded by Rep. Stites that SB 553 as amended, be recommended favorably. Motion carried.

Rep. Heinemann stated he would still like to see SB 736 passed because there is a real problem in Western Kansas with these matters. It was moved by Rep. Heinemann and seconded by Rep. Mills that the bill be recommended for passage. Motion carried.

The Chairman called for discussion on SB 579, concerning abuse, and stated it is his feeling it has significant and important provisions, but has reservations about the mill levy. He stated he didn't know whether it should be maintained under the tax lid, and also he had a problem with the peace bond. He appointed a subcommittee of Representatives Frey, Augustine, Roth, Stites and himself, with Rep. Frey to serve as chairman, to look at the full impact of the bill.

The meeting was adjourned.

3-23-78

JUDICIARY

NAME

ADDRESS

ORGANIZATION

Gladys Rollins	1158 N. Waco, Wichita, Ks, 67203	Wichita Women's Crisis Center
Kathy Calvillo	1268 Western Topeka Ks 66604	Battered Women's Task Force - Topeka/Shawnee City
John H House	112 W 6 <sup>TH</sup> TOPEKA, Ks 66603	LEGAL AID SOCIETY
Ronda Clerico	6113 W 26 St, Torr.	Battered Women's Task Force.
Carol Yeatman	1309 College	Battered Women Task Force Vol. Coordinator
Ray E Showalter Lamy Bennett	Topeka Box 622 Colby	KS B NURSING. Thomas Co. Citizens for new hospital
Ernest Kuttler	Route 2 Colby.	Thomas Co. Hosp. Board
James Rees	1270 Brookside Colby	Thomas County Hosp. - Adm.
Frank L. Gentry	Topeka	Ks Hospital Assoc.
Dorothy Crumbaker	Brewster - Ks -	
Bob Phillips	Topeka	KEC
Ralph Schmidt	Colby, Ks.	THOMAS CO CITIZENS FOR NEW HOSPITAL.
Don Smith	Colby, Kan	Thomas Co Taxpayer

3-23-78

Brian J. Windholz

775 S. School  
Colby, Ks

St. Thomas Hosp.  
ASSOC. Admin.

Ann Shawalter

Stanton, Ks

American Univ. Name

Ruth Groves

Topeka  
117 Woodlawn  
Topeka

Battered Women's Task  
Force of Shawnee Co.

Catherine Prider

Don Jumbler

14th

Lana Starkey

990 Meadlick Dr. Colby, Ks 67701

Judy Oliver

320 N. Grant Colby. St. Thomas

Carol Dalseg

625 N. Chick #1, Colby, Ks. Citizens for a  
New Hospital

Robert Waden

#90 Cottonwood Dr. Bethel  
THOMAS COUNTY TAXPAYER

Denis Guland

1119 Court Place  
Lawrence, Co. Tax payer

Chuck Rogach

Rt 3, Colby, Ks

THOMAS TAXPAYER

Ken Brannan

Colby, Ks.

N. Newton, Ks.

Ernst Weiss

Bethel College

N. Newton, Ks.

Mike Thumber

Bethel College

N. Newton, Ks.

JANE FRIESEN

BETHEL COLLEGE

NORTH NEWTON, KS.

Rosemary Reimer

Bethel College

N. Newton, Ks.

Arlan Kaufman

Bethel College

N. Newton, Ks.

Jerry DeJerman

Bethel College

N. Newton, Ks

Cindy Esp

Bethel College

N. Newton, Ks.

Ann Hebbeger

L. W. V. K.

Oakland Park, Ks.

DON E. CRUMBAKER  
REPRESENTATIVE 121ST DISTRICT  
SHERMAN, THOMAS, WALLACE COUNTIES  
R. R. 1  
BREWSTER, KANSAS 67732



TOPEKA

HOUSE OF  
REPRESENTATIVES

Mar. 22, 1978

COMMITTEE ASSIGNMENTS  
RANKING MINORITY MEMBER EDUCATION  
MEMBER ENERGY AND NATURAL RESOURCES

3-23

We introduced House Bill 3253 and 3254 as a result of the hospital situation in Thomas County. I sent a copy of the Supreme Court's decision to each of your offices late Monday or early Tuesday. This decision was not handed down until January 21 and by the time the local officials had time to review the decision and ask for action of the legislature, it was too late to introduce bills through the normal procedures.

We have several people here from Thomas County and some of them will speak to the situation. Before I introduce them I do want to make a comment about several conversations I had with Jon Small of the Attorney General's office. Mr. Small has to approve bond issues and he authorized me to tell the committee that there is no statute under which he could approve the building of a new county hospital at the present time. Before the Supreme Court's decision they had used 19-1878 but now they cannot. Mr. Small is out of town today but Arden Ensley conferred with him when drafting the proposed legislation.

The first person I would like to call on to explain the proposed bills is Mr. Dave Starkey, County Attorney for Thomas County. Mr. Starkey asked that we introduce this legislation in behalf of the County Commissioners, and the Hospital Board of Trustees.

THOMAS COUNTY TAXPAYERS ASSOCIATION, ET AL,

Appellants,

v.

JOAN FINNEY, TREASURER OF THE STATE OF KANSAS, ET AL,

Appellees.

SYLLABUS BY THE COURT

1.

The fundamental rule of statutory construction, to which all others are subordinate, is that the purpose and intent of the legislature governs when that intent can be ascertained from the statutes.

2.

When a statute is plain and unambiguous the court must give effect to the intention of the legislature as expressed rather than determine what the law should or should not be.

3.

K.S.A. 1976 Supp. 19-1878, and its forerunners, provides a means, under certain circumstances, for counties to obtain additional financing to complete the erection and equipping of a county hospital established under the provisions of article 18 chapter 19 K.S.A. when bonds have already been issued or a tax levied and the same prove to be insufficient for their original purpose.

Appeal from Thomas district court, STEVEN P. FLOOD, assigned judge. Opinion filed January 21, 1978. Reversed with directions.

Kenneth Clark, of Clark & Shelton, Hill City, argued the cause and was on the brief for appellants.



Joel R. Kriss, of Cooper, Shalz & Kriss, Colby, argued the cause, and Ronald S. Shalz of Cooper, Shalz & Kriss, Colby, and John S. Dean, Jr. and W. Edward Nichols, of Dean and Nichols, Topeka, were with him on the brief for appellees.

Curt T. Schneider, attorney general, and Jonathan P. Small, assistant attorney general, were on the brief for the Attorney General of Kansas, amicus curiae.

The opinion of the court was delivered by

HOLMES, J.: This action was instituted by a group of taxpayers (appellants) under K.S.A. 60-907(a) seeking an injunction preventing defendants from issuing hospital bonds in the amount of \$3,760,000.00 under the provisions of K.S.A. 1976 Supp. 19-1878. They now appeal from an order sustaining defendants' motion for summary judgment and overruling plaintiffs' motion for summary judgment.

G.S. 1939 Supp. 19-1854 through 19-1859, inclusive, became effective on February 25, 1938. This Act, passed apparently for the benefit of Thomas County, provided a procedure for certain counties to issue bonds for the purpose of constructing, establishing, completing and equipping a county hospital. On April 4, 1938, the Board of County Commissioners of Thomas County, by resolution, declared their intention to issue bonds in the amount of \$15,000.00 for construction of a new hospital as provided by the Act. Notice of their intent was published as required. The hospital bonds were issued and, with additional funds received from the federal government and the Sisters of St. Agnes, the hospital was established.

Under the authority of G.S. 1939 Supp. 19-1856, the new hospital was leased on October 20, 1941, to the Northwest Kansas Hospital Association, a Kansas corporation, which in turn subleased on October 21, 1941, to the Sisters of St. Agnes.

The Sisters of St. Agnes operated the hospital until October 10, 1973, at which time the lease was terminated and the hospital reverted to Thomas County. The Board of County Commissioners of Thomas County appointed a Board of Trustees pursuant to K.S.A. 19-1803 to take over management and operation of the hospital. The Board

of Trustees continues to oversee the operation of the hospital.

The Thomas County Hospital, through its Board of Trustees, entered into an agreement with Hospital Management Corporation, a Delaware corporation, for it to provide professional management of the hospital. Hospital Management Corporation has been employed by the hospital Board of Trustees for approximately 4 years and provides similar services to many hospitals throughout the United States.

Hospital Management Corporation also specializes in providing expertise in promoting, planning, constructing, equipping, and staffing new hospitals and assisting with the transition from an old facility to a new facility. On February 1, 1976, the Thomas County Hospital Board of Trustees and Hospital Management Corporation entered into a second agreement referred to as the Project Management Agreement. The objective of the Project Management Agreement is that a new hospital be constructed that will be properly planned as to size, equipment, staffing, etc., to meet the needs of the area at the lowest possible cost. The Board of County Commissioners ratified the Project Management Agreement on April 5, 1976. As a part of the agreement Hospital Management Corporation was to receive a fee of \$200,000.00 for its services. This fee was contingent upon the completion and sale of the necessary bond issue and the successful promotion of the hospital became of prime concern to Hospital Management Corporation. The record also indicates that the Thomas County Board of County Commissioners entered into a contingent fee contract in the approximate amount of \$66,000.00 with the then County Attorney for he and certain associates selected by him to do the legal work required by the proposed bond issue. There is nothing in the record to disclose whether these contingent fees were to be paid from the proceeds of the sale of the bonds or from other sources.

As required by the Regional Health Programs Act, (then K.S.A.65-2a01, et seq.), a request for a certificate of need was presented on April 28, 1976, by Hospital Management Corporation and James D. Daher as administrator of the hospital, to the Far Northwest Region Health Planning Council. Mr. Daher, as Chairman of the Far Northwest Region Health Planning Council, issued a letter dated April 29, 1976, to the Thomas County Commissioners advising that the Council had approved the request for new hospital facilities. K.S.A. 65-2a06 (since repealed) required, as a part of the request for a certificate of need, the applicant to furnish certain information to be considered by the planning agency in determining whether such a certificate should be issued. Included in the required information is a statement of the "projected cost estimates of capital expenditures and operating expenses." The request for the certificate of need presented to the planning council on April 28, 1976, indicated estimated costs of construction, site development and equipment in a total amount of \$3,015,000.00. Six days later, on May 3, 1976, the hospital trustees, acting under K.S.A. 19-1878, certified to the Thomas County Board of Commissioners that funds in the amount of \$3,760,000.00 were needed to build, furnish and equip a new hospital. No explanation appears in the record of the discrepancy between \$3,015,000.00 and \$3,760,000.00.

That same day, the Board of County Commissioners passed a resolution authorizing and directing notice to be given to the electorate of Thomas County of the intention to issue bonds to provide funds to build and equip a hospital in accordance with K.S.A.19-1878. Notice was published and protests were filed in sufficient numbers to require that the question of issuing bonds be voted on by the electorate of Thomas County.

On October 4, 1976, the Board of County Commissioners, by resolution

authorized the submission to the electorate, pursuant to K.S.A. 19-1878, of the proposition of issuing \$3,760,000.00 in general obligation bonds for the purpose of constructing, furnishing and equipping a hospital. Notice, as required by K.S.A. 10-120, was provided by publication in the official county newspaper. In addition to the legally required notice, the proposition of issuing the bonds received extensive coverage by the local news media. There was a great deal of discussion, both pro and con, concerning the need for the hospital and whether the hospital would result in additional taxes. It was repeatedly pointed out that the existing hospital constructed in 1938-1941 had been self-supporting and although general obligation bonds were to be issued by Thomas County, it was anticipated that no taxes would be necessary to retire the bonds or operate the hospital.

The election was held on November 2, 1976, with a vote of 3,137 in favor of the bonds and 1,032 opposed.

This action was filed by plaintiffs on January 5, 1977, to enjoin the issuance and delivery of the bonds.

On June 2, 1977, the trial court sustained defendants' motion for summary judgment and overruled plaintiffs' motion for summary judgment. This appeal followed.

Appellants raise numerous points on appeal attacking the validity of the proceedings leading up to the issuance of the bonds. The trial court in its opinion pointed out:

"The issuance of bonds which plaintiffs seek to enjoin are to be issued under authority of K.S.A. 19-1878. If this statute does not apply to the Thomas County Hospital or does not apply under the procedure used here, the plaintiffs are entitled to an injunction."

We are of the opinion K.S.A. 19-1878 does not apply to the case at bar. 1949 G.S. 19-1878 was the forerunner of our current statute. Pertinent parts of the original statute read:

"Whenever a county hospital has been established in any county under the provisions of article 18 of chapter 19 of the General Statutes of 1935 and acts amendatory thereof and supplemental thereto, and bonds have been issued or a tax levy made by the county as authorized by the election establishing such hospital, the board of county commissioners of said county shall, upon receiving the written certification of the board of trustees of said hospital, that proceeds from the bonds issued or taxes levied, plus all other funds available are insufficient to acquire a site, or build an addition to a present hospital or build and equip a hospital of the size and capacity necessary to supply the needs of said county and stating the amount needed to complete the erection and equipping of said hospital, issue additional bonds of said county if said original funds were raised by bond issue . . . but not to exceed one-half of the original amount authorized to be issued for the purpose of acquiring a site, erecting and equipping said hospital or addition thereto: . . . ."

(Emphasis added)

The statute also included extensive provisions for protests leading to an election and limiting the amount of taxes that could be levied in the first instance and the amount of any additional taxes levied.

The statute has remained virtually unchanged except for modifications of the limitations on the amount of additional bonds

which may be issued and a reduction in the percentage of protests required to force an election.

In 1961 the statute was amended to provide that the amount of additional bonds which may be issued could not exceed the original amount authorized.

In 1977 (K.S.A. 1977 Supp. 19-1878) the limitation on the amount of additional bonds which might be issued was eliminated altogether. This amendment in 1977 was enacted at the request and for the benefit of Thomas County and the bond issue here in question. The original bond issue of 1938, which established the existing Thomas County Hospital, was only in an amount of \$15,000.00. The additional funds necessary at that time to establish the existing hospital were furnished by the federal government through the Works Progress Administration and by the Sisters of St. Agnes. It appears that the appellees, having attempted to proceed under K.S.A. 19-1878, found themselves in the embarrassing position of their proposed new bond issue being limited to \$15,000.00 when they actually wanted \$3,760,000.00. The 1977 amendment which removed the limitation was made retroactive in an attempt to salvage the Thomas County bond issue.

The legislative history of Article 18, Chapter 19 of K.S.A. and its forerunners reveals that the article consists of numerous pieces of special legislation, couched in general terms, and adopted from time to time since 1913 to allow or remedy an existing situation in some particular county. As a result we do not have a comprehensive county hospital code that can be uniformly applied and relied upon throughout the state.

"The fundamental rule of statutory construction, to which all others are subordinate, is that the purpose and intent of the legislature governs when that intent can be ascertained from the statute." Eason v. Farmers Insurance Co., 221 Kan. 415, Syl. ¶ 2, 560 P.2d 117.

When a statute is plain and unambiguous the court must give effect to the intention of the legislature as expressed rather than determine what the law should or should not be. Lakeview Gardens, Inc. v. State, ex rel, Schneider, 221 Kan. 211, 557 P.2d 1286.

A reasonable reading of K.S.A. 19-1878 discloses no ambiguity which needs judicial construction if ordinary principles are applied to the interpretation of the statute in its entirety.

A careful study of K.S.A. 19-1878 reveals it was never intended to authorize bonds to build an entirely new hospital on a new site. The statute clearly contemplates a situation where, after the original bond issue (or tax levy), the hospital trustees discover the bonds authorized (or taxes levied) are insufficient "to acquire a site or build an addition to a present hospital, or build and equip a hospital of the size and capacity necessary to supply the needs of said county." Any other construction of the statute would completely nullify the various limiting provisions formerly contained in the statute as to the amount authorized to be issued and the provision that the county may, upon proper certification, issue additional bonds to complete the erection and equipping of said hospital. We may inquire, "additional to what?" If the emphasized wording taken from the statute is to have any meaning it must refer to the original issue authorized to establish the hospital in the first instance. Appellees argue, and are supported by several opinions of various Kansas attorneys general, that the limiting proviso applies only to a tax levy made and not to original bonds issued.<sup>1</sup> We think not. Such an interpretation completely ignores the limitations on additional tax levies and the use of the word "issued" in the limiting proviso

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1. It is interesting to note that the opinions relied upon by appellees were all issued pursuant to requests inquiring about additions and/or improvements to existing facilities. None were in response to inquiries relating to the financing of an entirely new facility. (See opinions dated August 12, 1960, June 1, 1966, February 1, 1968 and December 4, 1973.)



of the statute. Taxes are not issued, and bonds are not levied. As appellees point out, it would be unrealistic and unreasonable in light of current economic conditions, or those of 1949 when the statute was enacted, to tie a limitation on a bond issue for a new hospital to the amount of a bond issue for a hospital built in 1938. Consequently, it appears obvious that the legislature intended the statute to be a method of supplementing an existing bond issue or tax levy which is found to be insufficient for its original purposes.

The overwhelming vote of the citizens of Thomas County indicates the desire and need for a new hospital and it is indeed unfortunate that the proceedings were not commenced under proper statutory authority. However, it is beyond the power of this court to grant relief to the electorate and the same may be rectified only by appropriate proceedings by the local county officials utilizing the proper statutory authority.

Appellants raise numerous other questions in their appeal, including allegations of misconduct and also questioning the legality and propriety of the contingent fee contracts with the county attorney and Hospital Management Corporation.

In view of the decision reached, it is not necessary for the court to consider the other points on appeal.

The judgment of the court below is reversed with directions to enter judgment for the plaintiffs.

SCHROEDER, C.J. and OWSLEY, J. dissenting.

STATEMENT

3-23

TO: Judiciary Committee  
House of Representatives

FROM: H. David Starkey  
Thomas County Attorney

RE: House Bill No. 3253

HOUSE BILL NO. 3253

The Thomas County Hospital was constructed and established as authorized by Chapter 44 of the Laws of Special Session of 1938. To the best of my knowledge, Thomas County was the only Kansas county to establish a County hospital under the provisions of this act. Upon completion of the hospital, as provided by Section 3 of that act, the Board of County Commissioners leased the hospital. This act became Sections 19-1854 through 19-1859, inclusive, of the General Statutes. In 1947, the legislature repealed all sections of the act except 19-1856, which is Section 3 of the original act and K.S.A. 19-1856 today.

In 1973 the Board of County Commissioners appointed a Board of Trustees to operate the hospital pursuant to K.S.A. 19-1856. This Board of Trustees has supervised the operation of the hospital to the present time.

In the lawsuit referred to below, it was alleged that the Board of Trustees was not a legally established body. The District Judge found that the Board was legally constituted. On appeal, the Supreme Court did not deal with this issue. Therefore, we feel this is a matter that could be raised again.

It is my opinion that the Statutes relating to the operation of a county hospital established under Chapter 44 of the Laws of Special Session of 1938 are at the very best unclear and uncertain. Certainly, before the Board of County Commissioners can issue bonds of any type for the improvement of hospital facilities in Thomas County this matter must be corrected. Certainly, the Board of Trustees needs to operate the hospital from a sound, legal foundation for the day-to-day operation of the County Hospital. That is the intent and purpose of House Bill No. 3253.

STATEMENT

TO:           Judiciary Committee  
              House of Representatives

FROM:         H. David Starkey  
              Thomas County Attorney

RE:           House Bill No. 3254

HOUSE BILL NO. 3254

At the November, 1976, General Election, citizens of Thomas County voted 3 to 1 in favor of issuing General Obligation Bonds for the purpose of constructing a new County hospital, separate and apart from the existing County hospital. The County used K.S.A. 19-1878 as authority to issue bonds. Before the Board of County Commissioners could issue the bonds, a lawsuit was filed in the District Court (Thomas County Taxpayers Association, et al. vs. Joan Finney, Treasurer of the State of Kansas, et al., No. 49,297). The District Judge ruled in favor of the County on all issues. In January of this year, the Kansas Supreme Court ruled that K.S.A. 19-1878 could not be used for the purpose of constructing a new county hospital, separate and apart from an existing county hospital.

As a result of that decision, under the existing County hospital statutes (K.S.A. 19-1801, et seq), there is no provision for the construction of a new hospital facility separate and apart from an existing county hospital. Section 1 of House Bill No. 3254 permits the issuance of General Obligation Bonds for the purpose of constructing a new hospital separate and apart from an existing county hospital, or for additions to an existing county hospital, but only after an election by the people of the county.

K.S.A. 19-18,120 provides for the issuance of Revenue Bonds for the purpose of constructing an addition to an existing county hospital. Section 3 of House Bill No. 3254 amends that Statute so that Revenue Bonds may also be issued for the purpose of constructing a new hospital separate and

House Bill No. 3254, continued:

apart from an existing county hospital.

House Bill 3254 has statewide importance.

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KANSAS HOSPITAL ASSOCIATION  
TESTIMONY ON  
HOUSE BILL NO. 3253

March 23, 1978

"AN ACT relating to county hospitals in certain counties;  
providing for the operation of such hospitals; authorizing  
the levy of taxes for the maintenance and operation thereof;  
and repealing K.S.A. 19-1856."

The Thomas County Hospital in Colby and perhaps others, were established under the authority of Chapter 44, 1938. The question has been raised about the transition from that law to K.S.A. 19-1801, et seq, via 19-1856. This bill, then, is to assure that the Thomas County Hospital and any others falling in that category are legally established. We, the Kansas Hospital Association, support the bill, of course.

Frank L. Gentry  
President  
Kansas Hospital Association

KANSAS HOSPITAL ASSOCIATION  
TESTIMONY ON  
HOUSE BILL NO. 3254

3-23

March 23, 1978

"AN ACT relating to county hospitals; authorizing the issuance of general obligation bonds of the county and county hospital revenue bonds for the construction, equipping and furnishing of new hospital buildings and facilities or of enlargements and additions to existing buildings and facilities, and the acquisition of ground or sites therefor; requiring an election upon the question of issuing such general obligation bonds; amending K.S.A. 1977 Supp. 19-18,120 and repealing the existing section."

The necessity for this bill was brought about by a Supreme Court decision which declared that the Thomas County Hospital had used the wrong statute in seeking the issuance of bonds from which to finance a new hospital on a new and separate site.

The problem is that there doesn't appear to be another law that will serve this purpose. The Kansas Hospital Association supports this bill as being in the public good.

Certainly, the safeguards seem adequate. Not only does the issuance of bonds for the purpose require the approval of the voters; the Health Systems Agency and the Department of Health and Environment must certify to the need for the project.

Frank L. Gentry  
President  
Kansas Hospital Association



**Services** INC.

COLBY, KANSAS 67701  
345 Converse St.  
P. O. Box 353  
Phone 913-462-6753

3-23

Mr. Chairman, Committee Members:

My Name is Don Smith. I am a businessman and farmer in Colby.

I am here to speak for House Bills #3253 and #3254. In doing so, I am speaking for the three-fourths of Thomas County citizens that voted in favor of a general obligation bond issue to build a new county hospital.

This election was challenged in district court, and the county received a summary judgment dismissing the suit. The county's finding was appealed to the Kansas Supreme Court, and overturned there because the law used is designed only for additions to hospitals--not new hospitals at new sites.

The people of Thomas County are not alone on this problem. Numerous new hospitals have been built over the last twenty years under the law we tried to use. At least three Kansas Attorney Generals have issued opinions stating that this was proper--and now that statute cannot be used for this purpose.

House Bill #3254 provides a clear specific method for all counties desiring to build new hospitals at new sites or major remodeling and additions at existing sites to issue bonds for these purposes. It allows the county to determine the best facility for its needs, and the best method of financing for its situation, either General Obligation or Revenue Bonds. It provides for a county-wide election prior to issuance of General Obligation Bonds to assure that the people have the final voice in their taxation. It clearly states that hospital revenues may be used for bond retirement, which would reduce the tax levy. This bill will be invaluable to any county in Kansas which needs

3-23

Mr. Chairman, my name is Ernest Kistler, Jr., representing the Board of Trustees of the Thomas County Hospital: St. Thomas Hospital. I would like to thank you for the opportunity to express our support for these pieces of legislation in question, and urge your serious consideration of them. The Board feels that both are needed, if all of the county hospitals in Kansas are to be able to provide quality of care expected by their patients.

The first, K.S.A. 3254, will provide a means for all county hospitals to finance improvements in their physical facilities through the most effective route, whether this be general obligation or revenue bonds. I am sure that you can understand the total frustration we have experienced with our lack of ability to legally finance a hospital replacement project, which has all of the necessary approvals, including a 75% voting majority of residents served. We feel that this legislation will prevent this from happening when other counties face similar projects.

The second, K.S.A. 3253, will provide for clarification of legal status of the Board of Trustees of St. Thomas Hospital. Mr. Starkey, County Attorney, has explained the need for this in detail, thus I shall only state our total support for the legislation as presented. We are certain that it will answer many technical questions which have arisen from the previous special legislation creating the Thomas County Hospital in 1938.

Thank you for your consideration of this much needed legislation. We are certain that you will act promptly upon both pieces and in the best interest of all the citizens of Thomas County and the State of Kansas.



to build new hospitals or improve existing hospitals.

House Bill #3253 is designed specifically to clarify the legality of the Thomas County Hospital Board of Trustees. In the summary judgment the county won, the board was declared legal, but the Supreme Court did not rule on that point. We therefore feel it would be prudent to avoid potential future litigation by having this bill passed.

Finally, the people of Thomas County--and all of Kansas--need these bills to assure that in the long run the wishes of 75% of our voters to have a new hospital can be achieved.

Thank you for your time.

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you in opposition to the substitute for SB 506. You are today considering in part a proposal to wipe from the Kansas statutes laws speaking to three vital issues pertaining to the moral status of our state. I have had access to the legislative questionnaires as published by a number of legislators and note that few have asked the people's opinion on the particular issues that the bill would repeal.

However, I did include such a question on my own legislative questionnaire. From the several hundred that I received back, only one person favored the repealing of these particular laws. As I have personally queried people on this proposed bill the response has been either "Surely the legislature isn't considering such a proposal", or "No, I definitely do not favor such a repeal". Sunday's Parade Magazine, coming with our newspaper, contained an extensive article entitled "What is Happening to the American Dream?". May I share just a few sentences from this article that I feel are pertinent to our testimony?

As you contemplate any proposed legislation, I am confident that you ask these two questions: #1. Do I believe my constituents favor the proposal; and second, "Would this proposal enhance and uplift Kansas and Kansans?" Last year when a similar bill to 506 was heard in your committee you may recall a mother with four children who was present in the audience. In visiting with her, I asked why she had taken the time and effort to attend this particular hearing. Her answer was "I care about the moral climate in which my children will be living in the coming years". I believe you care, too.

I looked and saw tomorrow  
In little children's eyes.  
I thought how carefully we'd vote  
If we were truly wise.

I most respectfully ask that this bill not be passed.

*Rep. Glee Jones  
49<sup>th</sup> District*

# Beaten wife asks panel for aid

3-23

A battered wife, her eyes rimmed with dark shadows, has urged the House Judiciary Committee to approve a bill to provide emergency shelters for wives abused by their husbands.

"I have the right to ask you to do this because I myself am a battered woman," the frail, young woman said. "Because of weak laws, wives are not human beings, but possessions. There's no law that makes it illegal for my husband to beat me.

"Even if a woman gets a restraining order against her husband, a piece of paper won't stop a fist."

The committee decided Thursday to further study the bill, which also would provide shelters for other abused persons, before acting on it.

Gladys Rawlins, director of Wichita Women's Crisis center, said wife beating generally is hushed up, which means virtually no data is available to show the extent of the problem.

"However, the Wichita Police Department says it responds to about 2,000 family disturbance calls a month, and about half of these involve violence," she said.

Rawlins said wives stay with brutal husbands because they see no alternative.

"They're afraid of more abuse, they've been emotionally degraded to a feeling of worthlessness, and many times they are totally unable to support themselves or their children," she said.

She said the Wichita center, the only one in the state, usually has about 15 victims who have fled to its safety. She said the bill would allow the center almost to quadruple the number of people it could serve.

"This isn't just a problem of the poor," the Wichita woman said. "It exists among professional men, blue collar and white collar workers as well. The youngest victim we've had was 17. The oldest was 79."

Kathy Calvillo, a member of the Battered Women's Task Force of Topeka and Shawnee County, said victims of abuse desperately needed a safe place to go. She said the task force presently is using volunteer homes, but security is a problem.

"Assailants frequently seek out their

victims to inflict further abuse," she said.

A Legal Aid Society attorney, John House, told the committee the measure provides civil alternatives to criminal prosecution for those who assault their spouses or children, peace bond provisions to protect the abused party and places of temporary refuge.

Money for the emergency shelters

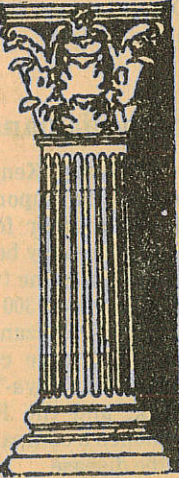
would be provided by a county mill levy.

Committee Chairman E. Richard Brewster, D-Topeka, said most remedies offered by the bill already were available to persons who had filed for divorce, separate maintenance or annulment, but the measure would extend equal protection to those who had not filed for any of the three.

## MEMORIAL PARK CEMETERY

3616 W. 6th

234-6605 or 233-8863



## HISTORY OF THE WOMEN'S CENTER

The Wichita Women's Center was founded in 1976 as the result of a study conducted in the City by a task force of five women who recognized the need for such a facility. While several of the women were from the Commission on the Status of Women, others represented the community at large.

This task force documented the need for residential shelter for battered and destitute women, and after extensive research wrote the background proposal for the Center.

The proposal was presented to, and unanimously approved by, the Commission on the Status of Women, who then backed it with the City and other appropriate agencies.

Deciding not to attempt incorporation, an already established agency was needed to sponsor the project. The YWCA volunteered to serve in this capacity, thus taking responsibility for the management of monies, and the efficient administration of the shelter. After six months of searching, first year funding of \$25,000 was secured through the Community Action Agency, and the first director, Bonnie Kaliher, was employed in June of 1976.

The first task on hand was locating a suitable facility which could be made to meet City zoning, health, fire and building codes. The residence at 1158 N. Waco, a former mens' half-way house, was finally secured, and renovated to meet building codes, and a plea for furnishings and contributions went out through mass mailings and the local news media.

The first supervisor and live-in were hired to assist with cleaning and readying the house for occupancy. The shelter officially opened on August 18, 1976, and announcements were sent to churches, agencies, radio and TV stations for an open-house to familiarize the public with the Center.

A Board of Directors for the Center was set up through the YWCA's Board, to assist the administrators of the facility in determining policies and procedures for operation. Second year funding was secured through a Community Development Block Grant, HUD funds administered through the City, with the backing of the CPOs, the CAA and the City Manager. Funding for 1978-79 has also been approved through a CDBG. Beyond 1979 funding sources are uncertain, unless Patricia Harris, Secretary of HUD is able to encourage other HUD officials to follow the recommendations of their Womens' Specialist, Joyce Skinner, and make shelters for abused women a priority for future HUD monies.

Many changes have occurred since the Center first opened. The original proposal was for the care of five residents, but demands for space have become so great that we have moved in more beds, and can now handle from 12 to 15 women and children. We try not to exceed 13, in order that our average for the year will not be over 9 residents. If we permanently average more than 9, a food handlers permit, from the Kansas State Board of Health, will be required, and will make necessary further improvements and changes in equipment, food serving etc. Currently, food is purchased in large quantities, and each resident is responsible for preparing her own meals. All residents are required to clean up the kitchen after meal preparation, as well as to perform daily, specified house duties.

Current staffing from CDBG funding includes a Director, responsible for the over-all administration of the Center; an Assistant Director, responsible for client counseling, assignment of staff to residents, and the scheduling of volunteers and staff for 24-hour handling of the Crisis line; and a part-time secretary, who works with clients, as time allows from her secretarial duties, schedules speeches, and keeps Center statistics.

From CETA funding we have two Outreach Workers, who work the Crisis line and counsel assigned residents and walk-ins, as well as sharing responsibilities for recording In-kind donations, purchasing food supplies, and scheduling, and supervising, residents in completing house work. Also from CETA funds we employ a Night Supervisor for Sunday through Thursday nights, and a week-end Supervisor for Friday and Saturday nights. These women counsel as necessary, handle crisis calls and walk-ins, and perform other duties as they have time.

Through the VISTA program we have two young women who not only fill in on the office schedule, but are each working on specific projects in the community which involve grassroot support for the Center and to acquaint other agencies and the community with the facility.

Through the Social Work program at WSU we have three interns, each of whom spend two semesters with us, working four and five hour shifts, at least three days per week, and many times oftener. These students counsel assigned residents, and meet with them on a regular basis throughout their stay in the Center. In addition, each student has a specific project, of her own designing, which she completes during her internship here.

Our procedure for accepting a resident may seem rather strict, but it is mandatory that the space we have is being used by a legitimate woman in crisis, who is totally without funds, family or friends to whom she can turn. Once we have established that we are the proper facility for the resident we will complete admittance forms for her, and for any children she brings to the Center with her, including all previous health problems, any current medical problems for which she is under treatment, and a history of past illnesses for the children, as well as immunizations records etc. Any medications the resident may have are taken from her, and locked in our meds cabinet. This is not only for the safety of the resident, but for the children in the house.

Within 24 hours of admittance, the resident is assigned a staff worker, who will meet with her as soon as possible to begin designing a plan of action based on what the client wants to accomplish, and the help she feels she needs. This plan is put on paper, and while the staff may make suggestions of further help she may wish to pursue, the basic plan is the clients', and she, with her staff counselor, signs the contract they have made. Our staff provides the resident with the telephone number and name of the persons she needs to contact for assistance. The resident is expected to make these calls herself, although in some instances it will be advisable for the staff member to either make the call, or at least a follow-up call. We try to avoid becoming "security blankets", and to help them to see that this is the beginning of their independence, and that they are able to make these contacts themselves.

The staff sets appointments with the resident for mutually convenient meeting times, usually three times per week, to review the plan, make any necessary adjustments in it, and see how well she is progressing in carrying it out. Problems are discussed, and referrals to other agencies may be appropriate, so that by the end of the three-week period in which a resident may stay in the Center, she will have accomplished her goal.

During the 19 months we have been in existence, we have housed 561 women and children, a total of over 6,000 client hours. Of these hours, over 5,000 have been battered or abused women. The remainder have been women with transitional living problems (eviction from home, kicked-out by family or friend, unable to find housing they can afford etc.), unemployment problems leading to no place to go, and many with marital problems other than abuse. Several of the general marital problems have involved abuse, or sexual violation, of a minor child, whom the mother had to get out of the house.

Our logged crisis calls during this period number over 1,900, and only those calls where actual referrals were made, and a genuine problem identified, were logged. Many other calls are received from women seeking some type of general information, usually of a nature which can be handled by the Women's Information and Referral Service, and are therefore not considered a crisis call.

Our referrals are coming from a wide variety of places in the community, including Legal Aid, emergency room doctors, private physicians, mental health centers, SRS, Churches, the Red Cross, Suicide Prevention, the universities, the police department, including police chaplains, and many as a result of a recent TV show, or by word-of mouth from former residents, or someone who has seen one of our posters. We have placed these posters in women's restrooms in all the large plants in the City, as well as at McConnell, Legal Aid, SRS, mental health centers, CAA centers, on the campuses, at the Red Cross and all other major agencies where women in trouble might gather.

We have just made arrangements with the Captain in charge of the training of rookie policemen and women to address their training classes, and will be distributing small calling cards which they can give to a woman when they answer a domestic call.

With excellent co-operation from so many areas of the City, and with the support of groups such as the League of Women Voters, the Junior League, Women's Political Caucus, the Commission on the Status of Women etc., we feel our future will be assured, even though the source of future funding is not certain. The fact that legislation has been introduced both in Topeka and Washington, D.C. dealing with shelters for battered women gives us hopes that at long last one of the best hidden problems in America is about to be brought to light!

### ACTUAL CASE OF A CENTER RESIDENT

THIS INFORMATION IS PRINTED WITH THE APPROVAL OF THE RESIDENT, IN HOPES THAT LEGISLATION WILL PREVENT OTHER WOMEN FROM EXPERIENCING HER ABUSE. NAMES USED ARE FICTITIOUS.

Nancy first came to the Center nearly two months ago, referred by Legal Aid where she had gone to seek help in suing for divorce. She had been married for 11 years, and had been consistently beaten during that time. Both she and her husband are employed in the same aircraft plant in Wichita, and because of his seniority, she was terrified that anyone would suspect that her scars and bruises were caused by her husband. When she arrived at the Center with her two teen-age children, she was so emotionally distraught that we sought immediate care both for her numerous, and severe bruises, and her emotional condition. She felt she had failed completely as a wife because she was unable to please her husband, though what he had done to her was truly unbelievable. At age 44 she looked to be well into her 50's, because she had been forced to go repeatedly to the hairdresser to have her naturally dark hair made completely gray so as to age her. He did not allow her to wear any makeup, nor was she allowed to leave the home premises without him. All household bills were paid from her check, in order that he might indulge his fancy for guns, CB and ham radio equipment, and motorcycles. Clothing for the children was purchased from what little was left of her check. When she was checked by a physician, it was determined she had six ribs which had in the past been broken, but had healed, though somewhat improperly.

Her face bears a large scar from a knife used on her, for which she was allowed no treatment. Her jaw was, and still is, out of alignment, and her teeth, which had been loosened on several occasions, were very crooked, so that she could not shut her mouth correctly. She was also suffering from internal bleeding as a result of repeated kicking. We counseled with her, and the children, the three weeks she stayed in the Center, while she filed for divorce, which included a restraint order against any further attacks by her husband. Since she did not have her car, she had to take a bus to work daily, and he would meet her, and follow her through the alley in which the time clock was located, threatening her by swinging a heavy thermos bottle at her head.

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Nancy rented an apartment, and went, with two of our staff to collect clothing and furniture she had left behind, only to find that he had used a razor to destroy all of her clothing, her leather coat and jacket etc., killed the family pet, and wrecked the interior of the home, which was rental property. They salvaged what they could, and got her settled in her new home. Great protection was taken at the plant etc. so that her new address remained unknown to her husband.

For nearly a month after the divorce petition was filed, her life was nearly normal, other than the daily threatenings at the plant. She returned her hair to its normal color, began wearing makeup, and dressing attractively, all of which made him extremely angry. She returned to the Center several nights a week for continued support and some counseling, and had begun giving us some volunteer help with house duties.

About two weeks after leaving the Center she was informed by her physician that because of internal damage resulting from the beatings she had received, she would require major surgery. Prior to that surgery, however, a D & C was performed, on a Saturday. The following Friday evening Nancy took her children bowling, and when she was ready to leave, she found her husband waiting for her in the parking lot, very drunk. He followed her to the car, kicking all the way, and then proceeded to beat her, throw her to the ground, kick her repeatedly in the abdomen and groin area, and finally hit her directly in the mouth with his fist. She somehow drove back to the Center rather than to her apartment, in case he was following her, where I was called, and then the police and an ambulance. She was in deep shock, bleeding internally, and had seven loosened teeth. Released from the hospital she returned with the children to the shelter, where we contacted her attorney, and took her to a dentist for repairs. Eight teeth could not be saved, and she consequently has had oral surgery, and partial upper and lower dentures constructed. She has been unable to return to work, and is so frightened she will not leave the Center except for dental appointments, and only when I can accompany her. Her attorney filed both contempt of court charges, and upon the advice of the city warrant officer, criminal assault charges, as the husband is 6'4", and weighs 250 pounds. These charges both go to court next Tuesday and Wednesday, and her divorce will be eligible for final action on April 3.



STATISTICS - WICHITA WOMEN'S CRISIS CENTER

August, 1976 - February, 1978 - 18½ months

Total no. of women admitted.....311  
Total no. of children admitted.....248  
Total no. of client service days.....4,831  
Total no. of client service days for  
abused women and their children....approx. 3,000  
Average length of stay per resident..... 9.5 days  
Average age of women..... 28  
Women re-admitted for second stay..... 32  
Women re-admitted for third stay..... 6  
Racial breakdown of residents:  
White.....72%  
Black.....17.4%  
Mexican-American..... 5.1%  
Native-American..... 4.4%  
Asian-American..... 1.1%

Total no. out-client services..... 1,902  
(Areas of abuse, housing, general information, referrals,  
and misc.)