

Approved

R.H. February 23, 1983  
Date

MINUTES OF THE House COMMITTEE ON Elections

The meeting was called to order by Representative Richard L. Harper at  
Chairperson

9:00 a.m. a.m./p.m. on February 8, 1983 in room 526-S of the Capitol.

All members were present except: Representative Ron Fox, excused.

Committee staff present: Ramon Powers, Legislative Research Department  
Arden Ensley, Revisor of Statute's Office  
Eric Rucker, Secretary of State's Office  
Dottie Musselman, Committee Secretary

Conferees appearing before the committee:

Wayne Neese, Scott County Sheriff  
Fred Allen, Kansas Association of Counties, Topeka

Chairperson Harper called the Election Committee Meeting to order. The Chairperson noted that a few of the members had asked to be excused at the start of the meeting due to prior commitments.

The order of the bills, as listed on the agenda, were changed. Chairperson Harper called for HB 2043 first, stating that hearings were already held on this bill and now was open for discussion.

Representative Moomaw was recognized by Chairperson Harper at this time. The Representative referred to the copy of the proposed amendment which he had handed out at the last meeting. (Attachment 1)

Chairperson Harper asked if there were any questions on this proposed amendment. There was discussion at this time, and Arden Ensley, Revisor, explained some of the wording of the amendment.

It was moved by Representative Moomaw to adopt the amendment. Seconded by Representative Acheson. Motion carried.

Representative Norman Justice wished to be recorded as voting no on this amendment.

Chairperson Harper asked for the committee pleasure on HB 2043. Discussion was held on parts of pages 2 and 4.

Representative Knopp moved to strike sections 2 and 3 from the bill, and to amend it. The motion failed.

Representative Acheson made a motion to report the bill favorably. Representative Moomaw seconded. Motion carried.

Chairperson Harper called for discussion on HB 2015, concerning petitions for elections. The Chairperson stated that when the committee first got into this bill, some had the idea that this bill also included petitions for recall, but since have found that this is not the case, and that the recall petition is a separate section. However, it was felt while the committee was considering this, some testimony should be heard on recall elections, and at this time Chairperson Harper called on Wayne Neese, Sheriff from the western part of the state to make his presentation.

Sheriff Neese passed out a packet of informational material which he called to the attention of the members of the committee. Mr. Neese asked that the committee look at the listing of the 13 allegations which the Recall Commission had circulated. He asked that the members please read through these so that they would know what was being talked about. (Attachment 2)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Elections

room 526-S, Statehouse, at 9:00 a.m./p.m. on February 8, 1983

At this time Representative Guldner was recognized by Chairperson Harper. The Representative stated that he was not taking any sides in this recall petition election out west, but noted that he thought it would be a good idea to hear about a recall petition from the other side.

Mr. Fred Allen, Kansas Association of Counties, was called to testify on HB 2015, at this time. A copy of a letter was handed out from the Kansas Association of Counties, which called attention to Item #9 in the Kansas County Platform. Mr. Allen's letter also encouraged the committee support on HB 2015. (Attachment 3).

Representative Blumenthal moved that the minutes of the February 1, 1983, meeting be approved as is. Representative Knopp seconded. Motion carried.

It was made known by Chairperson Harper that the Election Committee would hold HB 2015 for more discussion at a later date.

The meeting adjourned at 10:00 a.m.



PROPOSED COMMITTEE REPORT

MR. SPEAKER:

Your committee on Elections

Recommends that House Bill No. 2043

"AN ACT concerning the campaign finance act; relating to political committees; amending K.S.A. 25-4145, 25-4147 and 25-4148 and repealing the existing sections."

Be amended:

On page 1, in line 35, preceding "if" by inserting "name or description sufficiently describing the affiliation or,"; in line 37, preceding "committee" by inserting "political";

On page 2, in line 70, preceding "if" by inserting "name or description sufficiently describing the affiliation or,";

On page 4, in line 138, preceding "if" by inserting "name or description sufficiently describing the affiliation or,";

And the bill be passed as amended.

\_\_\_\_\_  
Chairperson



ADDRESS TO LEGISLATIVE COMMITTEE - PETITIONS

I would like to thank each and every one of you for showing your concern by addressing the problems of petitions. I would also thank you, and espically Representative Guldner for allowing me to share my experiences and observation on this subject. My commets will be limited to the matter of Chapter 25, Article 43 of the Kansas Statutes Annotated.

The need for a recall procedure of public officials in unequivocally necessary! Public officials must be responsible to the public in which they have asked him to work for them. However, that public official must be allowed a certain latitude in which to perform his duties to the public. You as Legislators would not be able to conduct your business if this premise were not true and valid. In K.S.A. 25-4302 the grounds for recall are set out; "...conviction of a felony, misconduct in office, incompetence or failure to perform duties prescribed by law." Black's Law Dictionary defines misconduct as; a forbidden act, dereliction from duly, willful in character. Incompentency is defined as; lack of ability, legal qualifications or fitness to discharge the required duty. Failure to perform duties prescribed by law is intrepeted as Statuatory duties. These terms have been misused and abused in the formulation of, quote, "grounds for the recall petition. In my case the proposed grounds were "incompetent and failure to perform duties of Sheriff." The second part of K.S.A. 25-4302 states "No recall.... shall be held void because of the insufficiency of the grounds, application, or petition by which the submission was procured." This is a good example of how one sided the recall process is.

You are not innocent until proven guilty, you are not guilty until proven innocent, but flat guilty! There is no way to defend yourself until it is all over but the shouting. To quote Attorney Gates in a memorandum submitted in reply to a District Court case (82-C-56); "The recall committee does not need to prove the allegations in the recall petitions. The proof is at the polls!" Now, I submit to you that the First Amendment to the U.S. Constitution guarantees the freedom

of speech, but this does not allow you to go to a filled theatre and yell fire.... you are wrong. The Scott County recall petition is filled with false statements, accusations, and insinuations. Examples of this are; (1) Failed to dispatch ambulance to an injury accident; (2) Failed to respond to calls; (3) Refused to provide traffic control at our county's biggest event (fair); (4) Been unnecessarily and excessively absent from the county; (5) Refused to transport needed blood unless an absolute emergency. All the accusations are inflamatory in nature and without specific facts and explanations, it weights very heavy against the Sheriff. These accusations are so general in nature it makes it impossible for the accused to know what specific instance they are referring to, thus incapacitating any logical explanation or defense. This is not justice, it is mutilation and mahem! My Grandfather Neese, who was also a Sheriff, once said, "You made your bed, now lie in it." This indicating responsibility. K.S.A. 25-4302 eliminates responsibility.

In K.S.A. 25-4324 the Statute states"...The necessary signatures on a petition shall be secured within Ninety (90) days from the date that the copy of Petition....is filed pursuant to K.S.A. 25-4322. Then K.S.A. 25-4327 explains that"...a recall committee may amend and correct the petition by circulating and filing a supplementary petition within Twenty (20) days of the date that notice was given..." These two sections create a certain ambigious condition. Does amend and correct mean working with the information (names, addresses and dates of signatures) already gathered by the first original petition or may the circulators gather new, additional names? Again, Black's Law Dictionary defines amend as; "to improve. To change for the better by removing defects or faults." Notice it said removing but not adding to. Corrected policy is the closest that Black's Law Dictionary comes to correct, and it is defined as "...to correct misstatements in policy first issued." These definitions indicate that the original names should be used rather than new names.

Looking back at K.S.A.-4324, it again said "The necessary signatures on a Petition shall be secured within Ninety (90) days..." suggests that the legislative intent was to include the 20 days for amending and correcting of signatures within the 90 days. If the petition would have been filed within 65 days, for example, then the amending and correcting process would be completed by the 85th day and all would be done within the 90 days. In the Scott County proceedings, this was not done. An individual signed as well as the agreed party has no knowledge of when the petition will be filed, therefore no final date is known by the signer when the cut-off date is for removing their signature. This lack of information could be eliminated by either requiring a notice of possible name withdrawal within the required warning as provided in K.S.A. 25-4321 or by allowing a period for removal after the final filing date and final determination by the county election officer. To allow this, the county election officer would have to make a public proclamation of the proper filing of the petition.

The agreed official has no way to compensate for mishandling of the petition by the recall committee and sponsors until after the election is held. According to K.S.A. 25-4329, the local officer may provide a statement of 200 words within 10 days after notification that the petition was properly filed. This statement will be pigeonholed until this election and then displayed with the petition copy at the polling places. In the first place, it is very hard to justify your conduct within 200 words, even if you do know specific instances. Secondly, most voters have, hopefully, already made a decision of how to cast their vote prior to appearing at the polls.

To insure the validity and sincerity of the recall committee, consideration should be given to a bond being posted by such committee. A possible bond in the amount of the last general election should be posted by the recall committee along with the filing of the petition, and list of sponsors with the county election officer.

This bond would be returned upon the election results falling in favor of the recall committee. If the elections results should fall

in favor of the local officer, then the cost of the recall election will be taken out of the bond. This action would be twofold in nature.

(1) There would be no "hate campaigns", but rather a bona fide reason for the recall; (2) The tax dollars would not be affected unless a valid recall was upheld.

The ideal economic process would be to hold these elections at a primary or general election. However, it would be impractical to keep an incompetent person in public office for up to two years after it being brought to the attention of the public. If the recall election were to be held in conjunction with a primary or general election, then just the cost of the recall proceedings would be deducted from the recall committee's bond.

I would like to see this committee consider and correct the problems of recall petitions within House Bill #2015. If not, at least the problem areas may be analyzed to help correct all petition statutes.

Thank you for the time and consideration shown by this committee by listening to my comments and suggestions. Most of all, thank you for recognizing the problems with petitions.

#### SUGGESTED CHANGES

1. Make the petition responsible for grounds and allegations used.
2. Set flat 90 day.
3. Request bond be posted.



## VICTIM OF A RECALL

This was my first attempt of an administrative position. With eight years of law enforcement experience with the Kansas Highway Patrol, I was eager to jump into the fire of administration. The first problem occurred while trying to work with and develop employees of the prior Sheriff. Sympathy feelings were much deeper seated among the employees than I realized. The undersheriff turned out to be of questionable character and the deputy was the husband of the County Clerk. I caught the County Clerk, the undersheriff and the deputy going behind my back to the County Commissioners. They had spent approximately \$6,000.00 out of the Sheriff's budget without my knowing anything was happening. The husband and deputy were released because of budget cuts occurred by their spending of the Sheriff's budget. The undersheriff was discharged one month later for insubordination.

A few days later the former undersheriff called me out to a meeting to tell me that he had "started ouster proceedings against me, and it was petty things, just like what I had fired him for."

The recall committee was comprised of the former undersheriff, his brother-in-law, and an undersheriff from the prior administration. The circulators were comprised of their friends, former employees, the wife of their friendly commissioner, the wife of a Highway Patrolman (KHP), and the chief reporter and wife of the editor of the local newspaper. There turned out to be a lot of incest within the recall personnel. The rules of their game appeared to be "Search and Destroy." As during the circulation of the recall petition, the following feedback was received: (1) I signed that petition to keep you in office; (2) I told them that I've always liked you, so I would be glad to sign; (3) They identified themselves as members of the Police Department, and gave the impression that the Police Department was wanting the recall of the Sheriff; (4) Some had no idea what they were signing; (5) "I have a petition for Wayne Neese, will you sign it?"; (6) I once got a ticket, I'll sign it." (7) If Neese stays in office our taxes will go up; (8) He is running around with different women; (9) He is never in the office when you want him; (10) He never leaves the office, he

just sits in there; (11) I will guarantee that all the charges are valid; (12) It doesn't matter whether you are for or against Wayne Neese, sign the petition, and lets get it to a vote. The list goes on but I believe you get the idea - say or do anything to get the signatures. There is at least one forged signature on the petition. Circulators have circulated outside the wards in which they live. One circulator was not a properly registered voter of the county, and numerous signers were not registered. Another known incident was a woman circulated a petition and she was not a registered circulator. There were bias letters to the editor in the local newspaper, but when I sent a letter to the editor, it was never printed. I wrote a letter to the recall committee requesting specific time, places, and instances, and I would furnish them with a reply. I have yet to hear from them. I am not completely sure today what their general terms on the petition refer to.

If time permits, I will attempt to explain the thirteen allegations on the recall petition.

The effects of this recall attempt have been quite devistating this past six months, not only to me, but my family as well. Public sentiment has been turned against me, and in public office you must have excellent public sentiment. With betrayal from the ranks, neighbors, and former friends, and the false accusations and rumors flying, I have become paranoid. I have been under medication, as well as my wife. My wife and children have suffered as much as I have. My wife had been subjected to increasing pressure from her office, as well as former friends and acquaintences. My children have suffered from stories told at school. My 8 year old boy told me of when at school they were encouraged to bring articles that they had read to school. Some S.O.B. cut out a newspaper clipping of the one sided local newspaper and sent it to school with his child. That clipping ended up on the class bulletin board! Finally, after five months of this type of indoctrination, my wife and children moved out of town. I was forced to sell our home that we had built. I am constantly urged to walk away from this mess, all because of a sour grapes attitude of two of my former employees, and the railroading effect of the recall process.

walking along that road. They have approached the school board about building their children the few blocks to grade school, but the school board has denied the request.

"We're not going to pick up any students within two blocks of the school," said superintendent Loyd Milligan.

Traffic on US50 is most worrisome to the parents. The fact that the new Holcomb High School has been built just east of US50 adds to that worry.

But increasing traffic on the River Road — another stretch between Holcomb and Garden City — is beginning to cause concern, too.

Speed limit on that road in Holcomb is 20 miles per hour, but Holcomb Police Officer Steven Fay says

Ramirez, "and we have strict rules about being on time for work. We can be suspended or fired for being late. A lot of people are willing to get a ticket rather than lose their jobs," Ramirez said.

Ramirez lives west of Holcomb and has a son in first grade.

Those at the gathering Tuesday night said IBP is responsible for the traffic problems and therefore should help correct the situation.

"If I were IBP I don't think I'd settle for sending flowers to loved ones (of people killed on the highway), saying 'I'm so sorry.' Instead, I'd do something about it," Ramirez said.

A proposed bypass, which is to divert US50 traffic from east of Garden City to west of Holcomb, would solve the

said, the city council is powerless to do anything on US50.

"This traffic is terrible. It's next to impossible to get on that road," Myers said. "We keep them in the speed limit and try to make it as safe as we can, but that's all we can do," Myers said.

Myers said the council has asked the state's permission to put a stoplight on the road. But the state will not allow that unless the intersection has traffic coming from at least four directions. As of yet, Holcomb has no through street that intersects with US50.

Myers said there has been talk of extending either Wiley or Henderson Streets so that they continue north of US50, but no definite plans have yet been made. Even if those plans go through, Myers said he would still

As time passes, not easing becoming more...  
"I feel like we're being we're little Ramirez said involve the pr too. Holcomb wait until t done?"

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# 'I wouldn't have smoked it...or chewed it'

HOUSTON (AP) — Now that she's been convicted of growing pot in her vegetable garden, 82-year-old Laura Clark says she doesn't "care about marijuana...I'll never plant any more."

Jurors deliberated 20 minutes Tuesday and found the great-grandmother guilty of felony possession of a controlled substance. She was sentenced to two years of unsupervised probation, the most lenient penalty allowed. The maximum

would have been 10 years in prison and a \$5,000 fine.

Mrs. Clark testified that a doctor in Mexico gave her the seeds and told her they were herbs. She said she intended to use the plants to make an arthritis lotion.

She acknowledged that a friend, who saw the plants when they were about a foot high, revealed their true identity. But she said she let them grow in good faith.

"I wouldn't have smoked it. I

wouldn't have chewed it," she said after the verdict. "I was going to do what the doctor told me to do — soak the leaves in alcohol and put the juice on wherever I hurt."

Two plainclothes narcotics detectives said they arrested Mrs. Clark after they went to her house May 4, acting on an anonymous tip, and found five or six marijuana plants standing four to five feet tall in her vegetable garden.

A chemist testified that the marijuana taken from her garden

amounted ounces — marijuana

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# Scott Citizens split over recall

By ANNETTE GALLUZZI  
Staff Writer

SCOTT CITY — Petitions to recall Scott County Sheriff Wayne Neese have been circulating for more than a week now, but it seems that many Scott City residents aren't sure about the validity of the 13 allegations against the two-year veteran sheriff.

The recall committee — comprised of three former sheriff's department employees who either quit or were fired — filed a petition August 13 that contains 13 charges against the sheriff. Charges range from excessive absenteeism from the county to failure to respond to accidents.

The committee has 90 days to obtain the 965 signatures necessary to put the recall question to a vote of the people. A recall committee member says he anticipates the necessary signatures will be obtained in advance of the 90-day deadline.

While some citizens doubt the truthfulness of the committee's

NEESE:  
Under fire



allegations, Scott County Hospital Administrator Jackie John says she knows at least one of the charges is false.

John said the recall committee never contacted her before including two charges that indicate Neese was lax in duties pertaining to the hospital.

One claim is that Neese refused to transport blood unless it was needed for an absolute emergency. The other states that Neese refused to dispatch an ambulance to an injury accident.

"Specifically, the information given about the blood has been misleading. I,

wish they had contacted us prior to filing the petition because that's not a problem we've had," John said.

John said the sheriff has always responded when asked to transport blood and medication in emergency situations. She said that is the only time the sheriff is asked to transport blood. The hospital takes care of shipments to replenish its supply, John said.

When told that John disputed that allegation, recall committee member Mel Jamison maintained that the charge is true. He said there have been times another law enforcement agency has asked to be met by the Scott sheriff at the county line to take over the transporting of blood. Jamison said Neese has refused.

Another charge is that Neese refused to dispatch an ambulance to an injury accident. That allegation is based on an "isolated incident," John said.

According to the recall committee, that allegation stems from a December 1981 accident in which a man went to

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Holcomb Mayor Ivan Myers says that if anyone has a solution to the traffic problems, he would be glad to hear from them. As it stands now, Myers said, the city council is powerless to do anything on US50.

"This traffic is terrible. It's next to impossible to get on that road," Myers said. "We keep them in the speed limit and try to make it as safe as we can, but that's all we can do," Myers said.

Myers said the council has asked the state's permission to put a stoplight on the road. But the state will not allow that unless the intersection has traffic coming from at least four directions. As of yet, Holcomb has no through street that intersects with US50.

Myers said there has been talk of extending either Wiley or Henderson Streets so that they continue north of US50, but no definite plans have yet been made. Even if those plans go through, Myers said he would still

"We would love to have that bypass. Who funds it is really immaterial. It just needs to be built. I don't think we should wait until we have a tragedy," Milligan said.

As time passes and traffic congestion is not eased, Holcomb residents are becoming more bitter.

"I feel like we're in the dark and we're being ignored. Just because we're little people, we don't count," Ramirez said. "This doesn't just involve the present. It involves the future too. Holcomb is going to expand — why wait until the future to get something done?"

Until something is done to ease the traffic burden, the parents remain convinced that a child will die on US50 in Holcomb. And, they say that is probably the only thing that will make the state take notice of Holcomb's plight.

## Cities Service asks trade halt

NEW YORK (AP) — Cities Service Co. today asked the New York Stock Exchange to halt trading in its stock pending an announcement after the Cities board of directors meets to discuss the company's effort to find a buyer for part or all its assets.

Trading in Cities stock had not opened before the company requested the halt.

Cities stock had gained \$2.25, to \$45 a share, in heavy trading Tuesday. Trading in Cities stock has been usually heavy while the company has sought a merger partner to replace Gulf Oil Corp., which withdrew a takeover bid earlier this month.

The Cities board meeting scheduled for this afternoon would be the second this week. On Monday the directors rejected Occidental Petroleum Corp.'s \$50-a-share tender offer for a 49 percent stake in Cities, saying they believed they could arrange a better deal with Occidental or another company. But the directors stopped short of recommending that Cities shareholders not tender their stock.

Charles Waidelich, the chairman of Cities, told shareholders in a letter Monday that Cities had received "serious expressions of interest, and, in some instances, proposals from several companies with respect to the possible purchase of certain segments of its business."

Waidelich indicated in that letter that the directors would consider those other proposals at today's meeting.

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Two plainclothes narcotics detectives said they arrested Mrs. Clark after they went to her house May 4, acting on an anonymous tip, and found five or six marijuana plants standing four to five feet tall in her vegetable garden.

A chemist testified that the marijuana taken from her garden

amounted to 506 grams, or about 16.8 ounces — or enough to roll about 1,500 marijuana cigarettes.

Mrs. Clark's lawyer, Bill Portis, dropped to one knee during final arguments and begged jurors to find the woman innocent. Portis said later there would be no appeal.

District Judge Mike McSpadden told Mrs. Clark that "the only condition on your probation is that you give me a call every couple of months and tell me how you're doing."

## s split over recall petition



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Another charge is that Neese refused to dispatch an ambulance to an injury accident. That allegation is based on an "isolated incident," John said.

According to the recall committee, that allegation stems from a December 1981 accident in which a man went to

the law enforcement center and asked that an ambulance be sent to an injury accident. Neese went to the scene of the accident and dispatched an ambulance from there.

"To the best of my knowledge that was a one-time thing and it was a judgment decision in the early morning hours...He felt information coming to him prior to dispatching an ambulance needed verification," John said.

John said Scott has a volunteer ambulance service and, she said, Neese did not want to wake the volunteers unless he was sure they were needed. At the time of the accident, Neese himself was a certified Emergency Medical Technician, John said.

"We really have not had problems with them dispatching an ambulance," Neese said.

John learned only Monday that the petition contained those two allegations. She said she contacted the county attorney to see if they could be

removed from the petition. But that can not be done.

Backing the allegations with proof is a point that has bothered Scott Citizens; bothered some of them to the point that they refuse to sign the petition.

One Scott City woman, who didn't want to be named, said she had hoped there would be some sort of hearing to give Neese a chance to defend himself and to give the recall committee an opportunity to present evidence.

Recall procedure contains no provision for a hearing. Neese has denied the charges but so far has declined to defend himself further.

The fact that the recall committee is comprised of three former officers weighs heavily on the minds of some Scott Citizens. It brings up questions in their minds about the recall group's motivation and credibility.

Jamison, George DeWitt and Lonnie

Continued on Page 3

# Scott Citizens split over pe

Continued from Page 1

Hanzlick comprise the committee. DeWitt was undersheriff for Rod Lance, who was defeated by Neese in the last election. DeWitt quit when Neese took office.

Hanzlick is a former city police department officer who had quit his job before Neese became sheriff.

Jamison was fired from his job as undersheriff in June. He had served as a part-time civil processor under Lance, the former sheriff, and was promoted to undersheriff when Neese took office. Neese has since said he fired Jamison for insubordination.

"The thing that precipitated this was Jamison's firing. There's no doubt about that in my mind," said County Attorney John Shirley.

"Most of the driving force behind this petition has come from former employees, county commissioners and city commissioners," Shirley said.

Shirley said he will not sign the petition.

Bob Brittan served as Scott County Sheriff for 10 years beginning in 1957. His wife, Mildred, was sheriff for two years. Both of the Brittans have refused to sign the petition because they have no proof that the allegations are true, they say.

"I don't like their slant on it because they were released from their jobs," Brittan said of the recall committee.

Nearly half of the 25 people the recall committee has enlisted to solicit signatures have direct ties to the law enforcement tiff.

Five are former Scott City or County lawmen, including one man who is the husband of Scott County Clerk Jan

Kuhlman. Kuhlman's husband had been an officer under Neese. He was fired shortly before Jamison was. He later gained employment as a Scott City police officer.

County Clerk Kuhlman is responsible for verifying signatures on the petition — those who sign must be registered voters of the county.

Kuhlman said she is trying to stay neutral in the situation but because of her husband's affiliation with the recall group, she will ask the city clerk to review the signatures as well.

Also included in the recall group are: two fair board members (one of the recall committee's allegations is that Neese failed to provide traffic control at the fair), a county commissioner's wife, a highway patrolman's wife and a newspaperwoman who wrote an article about the petition for the Scott City News Chronicle.

Jamison has no qualms about the affiliation of people who have been enlisted to pass the petitions.

"Everyone in the community has a right to take part in this because they all pay taxes. I don't care if they're a priest, a lawyer a newspaper person or a law enforcement officer. Their affiliation, what they do and the way they're carrying this (petition) is totally immaterial," Jamison said.

In fact, Jamison said that because former officers know more about law enforcement, they have greater insight into the performance of the sheriff than do other citizens.

"Former officers know how the department should work and does work and if anybody knows how the department should operate, they know. A lot of people outside the law enforcement

*'He runs things by the law... going 56, you're breaking the law'*

community don't know," Jamison said. Jamison contends that every charge in the petition is true and he says he can prove each one. He said in some cases his evidence comes from the sheriff's log of law enforcement activities. In many cases, he said, he has witnesses to substantiate the claims.

The sheriff's log is not public information.

"If it was up to me," Jamison said, "it would be like the White House tapes. People ought to know what's in (the log)."

Neese says he has proof that the allegations are false.

Jamison said he would like to see Neese come forward to dispute the charges. As of yet, the sheriff has remained silent, only saying he believes the petition was instituted because of former employees' "sour grapes."

"I think he (Neese) ought to get out and explain those things. If he can't do that, they (the public) will have to rely on what they've got," Jamison said.

Although Neese has not yet publicly defended himself, he says he has no intention of trying to stop the recall. He said it is an opportunity afforded the public and Neese says the public has a right to that opportunity.

Although citizens somewhat doubt the allegations made by the recall group, they still are not entirely happy with Neese's performance. They say he is very strict and they apparently are

unhappy with enforcement.

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## Telegram roundup

Garden City, Southwest Kansas

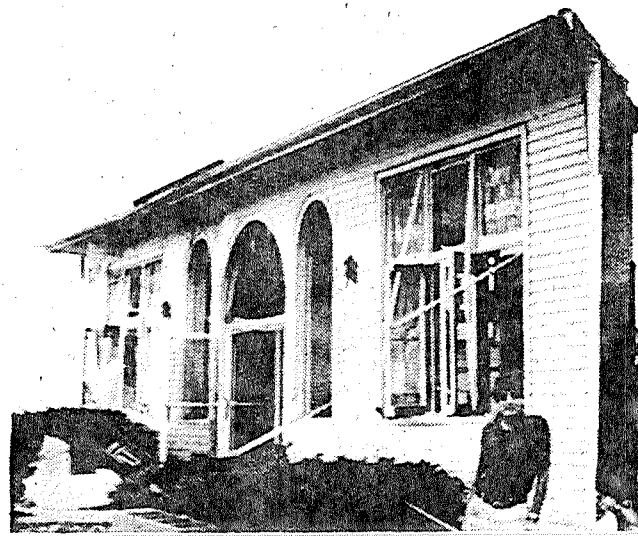
### Manslaughter charge refiled

A charge of involuntary manslaughter has been refiled against the driver of a vehicle involved in a fatal accident Dec. 14, 1981.

Tony T. Trarbach, 21, KOA Campground, is accused in the traffic death of Gary Messenger.

The accident occurred 7½ miles south of Garden City on US83. Messenger, 21, was thrown from the northbound pickup truck in which he was riding and killed after a vehicle driven by Trarbach attempted a U-turn in front of the pickup, according to the highway patrol's account.

The involuntary manslaughter charge had been dismissed by the court last spring because of a legal question involving the wording in the statement of the



# er petition to oust sheriff

*things by the book. If the speed limit is 55 and you're breaking the law.'*

nison said. Every charge says he can some cases e sheriff's activities. In witnesses

unhappy with that philosophy of law enforcement.

"He does things like give parking tickets and pick up our dogs," one downtown shopper said.

The Brittans — former sheriffs — agree that Neese is strict.

"I think the guy's a little over-exuberant in his law enforcement," Brittan said.

"He's the superior officer of the county and he wants real high authority," Mrs. Brittan said. "He's not in there to press his authority. He's in there to do a service for the people."

Still, the Brittans won't sign the recall petition.

Neese says he believes in showing no favoritism when enforcing laws.

"I definity believe in equal law enforcement," he said.

While Neese's handling of crime is viewed as a fault by some, to supporters of Neese it is the sheriff's strong point.

"He runs things by the book. If the speed limit is 55 and you're going 56, you're breaking the law. He goes by the book," said downtown merchant Keynen Wall. "People forget that in times of problems, he's the man to have in there."

Wall said he doesn't believe Neese has been given a fair shake by the Scott City newspaper. Other citizens, even some who are unhappy with Neese,

agreed with Wall.

Most of the approximate 30 private citizens interviewed by the Telegram said they did not know enough about the sheriff to sign the petition. They said they know only what they have read in the newspapers and they are not ready to pass judgement based on that.

Jamison says "We expect to meet some opposition because a lot of people don't understand it."

Whether a recall election ever comes about remains to be seen, but county clerk Kuhlman says people are gearing up to vote. She said there have been an influx of registrants, which is unusual.

Kuhlman said the county clerk's office stays open at night before general elections to afford people the chance to register, but they usually only have one person take advantage of the opportunity.

Without stretching office hours, people are coming in to register. Monday, 21 people registered. Nearly 60 did so at the Scott County Fair. Prior to the new registrations, there were 2,763 registered voters in the county.

To sign a recall petition, a person must be a registered voter.

If a recall election takes place and if Neese is ousted, a new sheriff would be appointed by the governor, upon recommendation by the Scott County Democratic Committee.

There has been some talk about a grand jury investigation into Neese's performance. But County Attorney Shirley said that type of investigation takes place only when there is a suspicion that laws are violated. As far as Shirley can tell, Neese has broken no laws, Shirley said.

Allegations contained in the petition are:

- Failed to dispatch an ambulance to an injury accident.
- Fails to respond to calls.
- Failed to return civil papers within the time prescribed by law.
- Fails to make needed police reports of criminal activity in the city and county.
- Uses county vehicle for personal use.
- Fails to utilize personnel in his department.
- Is unable to be contacted when needed.
- Refused to provide traffic control at the county's biggest event — the fair.
- Mishandled and applied undue pressure on juvenile suspects.
- Is unnecessarily and excessively absent from the county.
- Refuses to transport needed blood unless it's an absolute emergency.
- Failed to respond for needed backup for a potentially dangerous situation.
- Failed to file a search warrant with the court and after executing the search warrant and seizing contraband, he failed to return the warrant to the court and filed no criminal charges against the suspect.



## Driver arrested

PITTSBURG, Kan. (AP) — A Neosho County man suspected of driving a car into a crowd outside a Pittsburg bar was arrested Tuesday on a Crawford County warrant charging him with six counts of aggravated battery and four counts of criminal damage to property, according to the Pittsburg police.

Kenneth Dorrrough, 19, of Erie, was being held in the city jail Tuesday night in lieu of \$25,000 bond, police said.

Six Pittsburg State University





Lined area for signatures and names.

I \_\_\_\_\_ hereby certify that I am a sponsor for the recall petition of Sheriff Wayne Neese, that I am the only circulator of this copy of the petition, I circulated this petition in the manner provided by law, to the best of my knowledge the signatures are those of the persons whose names they have purported to be, and the signatures were made in my actual presence.

Subscribed and sworn to before me in my presence this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ County \_\_\_\_\_ State \_\_\_\_\_

Signature

December 4, 1982

Wayne A. Neese  
1101 Viola  
Scott City, Kansas

Recall Committee,

In regards to your allegations on the recall petition being circulated, I am requestion you to provide me with specific incidents, times, and places. I will be glad to furnish an explanation within a reasonable time from receipt of this requested information. Your reply may be mailed to the above address.

Wayne A. Neese

## SHERIFF'S STATEMENT

I am competent to discharge the duties of Scott County Sheriff and for the past two years I have done so. My contract with this community is for four years and I hope to fulfill that agreement. However, even with a good law enforcement background, it is difficult to achieve goals without cooperation.

I will be the first to admit that I have made mistakes, as we all have. Before accepting the recall committee's allegations I ask you to look at actual facts, true reasons behind the recall committee, as well as the entangling alliances of the committee and their helpers.

Sheriff's duties are set by state law and the allegations made fail to fall within these statutory duties. Instead, these misguided contentions are designed to arouse emotions and cause contempt. I have always tried to do what is best for Scott County.

Sheriffs perform undesirable but necessary deeds that the majority of the community wants little part of. Rather than shoulder their responsibilities, the recipients of these deeds, civil and criminal, have a tendency to transfer their feelings against the Sheriff. This transference is only human, however, how often have you said thank you to an officer.

# Kansas Association of Counties

*Attachment ?*

*Serving Kansas Counties*

Suite D, 112 West Seventh Street, Topeka, Kansas 66603

Phone 913 233-2271

February 8, 1983

To: House Elections Committee

From: Kansas Association of Counties

Re: HB 2015 Petitions for Elections  
HB 2050 Terms for Precinct Committeemen and  
Committeewomen

We wish to call your attention to Item #9 in the Kansas County Platform which states "We request a change in protest petition statutes to provide for a uniformity of procedural regulations and signature sufficiency." HB 2015 accomplishes that request in part and we encourage your support on this bill.

We also request your support on HB 2050 relating to terms of office for Precinct Committeemen and Committeewomen. We are advised by numerous County Election Officers throughout the state that this bill would simplify elections as well as generally reduce election costs

*Atch. 3*

Rep. Richard Harper  
House of Representatives  
State Capitol  
Topeka, KS66612

Ottawa, Kansas  
Feb. 3, 1983

Dear Mr. Harper:

It seems we in Franklin County face a unique situation in that our elected officials are unwilling to follow the wishes of the people they are supposed to represent.

They seem more prone to follow the wishes of special interest groups.

It is only by petition and elections, the people have been able to make their wishes known.

Now it seems they are attempting to circumvent this process also.

I urge you to use your good judgement and not change the laws, concerning our right to petition our elected officials.

If our elected officials were truly interested in representative government they would not need HB 2015.

Sincerely,

*Emil E. Johnson*

Emil E. Johnson  
Ottawa, Kansas  
Rural Route 4, 66067



*Mr. & Mrs. Merle M. Haas*  
*Rural Route 1*  
*Wellsville, Kansas 66092*

January 30, 1983

Rep. Richard Harper  
House of Representatives  
State Capitol  
Topeka, KS 66612

Dear Mr. Harper:

Enclosed is a copy of a letter my wife and I sent to our representative, Dorothy Nichols, which expresses our feelings towards the so-called "petition problem" of Franklin County.

Paragraph F of HB 2015 says that an issue cannot be voted upon in a special election unless that election is sanctioned by the governing body. This would be fine if language was inserted which would prevent the governing body from enacting the petitioned issue until it is voted on by the people.

Paragraph D, which allows people to remove names, seems logical on the surface. However, unless language is inserted allowing the petitioners to make up any names removed, it would create a situation whereby no one would ever know for sure whether or not he/she had enough names. It would also lead to the temptation for members of a governing body to intimidate people into removing their names so as to keep an issue off the ballot, as the petitioner would not have an opportunity to replenish those names that were removed.

I would like to reiterate by saying that if the elected officials of any subdivision truly represented the people, these officials would not have to worry about issues being voted down by the people.

Sincerely,



Merle M. Haas

MMH:jh  
Enclosure:1

Mr. & Mrs. Merle M. Haas  
Rural Route 1  
Wellsville, Kansas 66092

January 21, 1983

Representative Dorothy Nichols  
State House  
House of Representatives  
Office 182-W  
Topeka, KS 66612

Dear Dorothy:

Re: HB 2015

We urge you to exercise extreme caution in jumping on the bandwagon to revise the process of petitioning, so as to make it more difficult for a group of people to bring an issue to the vote of the people.

I don't believe a majority of your constituency wants any change, except, perhaps, to allow more issues to be subject to statutory petition.

According to the "Ottawa Herald" your reasoning for support of changing the law was due to elections being held at a cost to the public without any change being made on the issue in question. In our opinion, this type of reasoning does not constitute good judgment, and is analogous to that of one commissioner who said that 10% of the people were deciding what goes on in the county.

Considering the comments that were made by this individual in the past, we doubt if he/she is aware of the fact that our officials are elected to represent us and not rule us. Surely you are aware of the fact that on every issue brought to the vote of the people in Franklin County, by the petitioners, the people affirmed the opinions or judgment of the petitioners by a wide majority. If anyone or anything is to be blamed for costing the county money, our county officials should be blamed for not, obviously, representing the people, and the blame should not be placed on the petitioning process which alerted the people to this lack of representation.

We could understand concern if elections were being held and the people disagreed with the petitioners, but such is not the case; thus, the system of democracy is working like it should.

We would like a copy of HB 2015 and any other bills relating to this issue. We wish to follow this bill through the House and would appreciate receiving amended copies as it goes through the various committees and legislative processes. We also request a booklet showing committee members of the various legislative committees that have been formed this session. Also, please send a current legislative directory. Thank you for your consideration.

Sincerely,

Merle & Judith Haas

MMH:jh  
cc:Franklin County Commissioners

11-23-82

# Commentary

## From Our Readers

I hope all of your subscribers read and then gave considerable thought to the article "Local Petition Concerns to State Panel," Page 1, November 19.

I am appalled that some of our local leaders would demonstrate such lack of knowledge of the process and purpose of the right to petition as guaranteed in the First Amendment of the federal Constitution and the Bill of Rights to the Kansas Constitution. According to the Herald's article, the county commissioners and city mayor are disturbed because the petitioners are not required to present both sides of an issue and because the petition allows a "minority to dictate to the majority."

A petition is not a document that is intended to present both sides of an issue. The nature of a petition is to advocate a specific position. Regarding the appraiser's issue, a minority through legal means provided an opportunity for the majority to speak, too. The vote resulted in overrule of the desire of the elected representatives. In this particular case the will of the majority coincided with the will of the minority who signed the petition. The commissioners were not reflecting the will of the majority at all or the outcome of the election would have supported their position.

We are guaranteed in the federal Constitution a republican form of government, a state in which the sovereignty resides in the people through

elected representatives. We elect people to represent us, not to rule us nor to represent the government agencies. When elected leaders have failed to hear or understand their constituents, the "coffee shop cynics" have historically served as the guardians of liberty and without them we would be ruled by edicts and mandates rather than statutory law. The writers of the federal and Kansas constitutions apparently thought there should be some way to get the attention of elected officials lest they become insensitive to the public's concerns. The constitutional right to petition serves that purpose and when used should alert public officials that an issue needs closer examination.

Though I am not a patron of the local coffee shops nor a signer of the petitions referred to in your article, I support anyone exercising his legal right to petition to get governing bodies to stop and listen. When Sen. Allen and Rep. Nichols introduce their bill in the legislature to deal with the petition drive issue, I suggest a rider be attached which requires all elected officials to pass a competency test over American History and the federal and state constitutions before assuming their duties.

History shows that when the dissenters and "coffee-shop cynics" are silenced, the next step is to close the "coffee shop." — Al Mettenburg, Princeton.