

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative Bob Frey at  
Chairperson

3:30 ~~am~~ p.m. on January 17, 1983 in room 526-S of the Capitol.

All members were present except:

Representative Douville was excused.  
Representative Peterson was absent.

Committee staff present:

Mark Burghart, Legislative Research Department  
Mike Heim, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes Office  
Nedra Spingler, Secretary

Conferees appearing before the committee:

Representative Lloyd Polson  
Jim Clark, County and District Attorneys Association  
Jim Flory, Criminal Division, Office of the Attorney General  
Col. David Hornbaker, Superintendent, Kansas Highway Patrol  
Adrian Farver, Kansas Sheriffs Association and Kansas District Magistrate  
Judges Association  
Marjorie Van Buren, Judicial Center, Kansas Supreme Court

The minutes of the meeting of January 12, 1983, were approved.

The Chairman said it would be a Committee policy to hold hearings on bills and to take action on those heard at a later date.

HB 2007 - An act concerning provision of services by county and district attorneys to county hospitals.

The Chairman introduced Representative Lloyd Polson who stated he had been the Chairman of the interim committee study on Hospital Laws (Proposal No.9) that recommended HB 2007. The bill provides that the county attorney does not have to represent the county hospital in legal matters but may do so. The rationale of the interim committee was that hospital litigation is becoming more time consuming and difficult and may be beyond the scope of some county attorneys or may require too much of their time.

In discussion, a member noted that it was not that county attorneys were not doing a good job but the statute was not clear if it was the county attorney's responsibility to represent the hospital. HB 2007 attempts to clarify this. If this bill does not pass, the Attorney General will say county attorneys must represent county hospitals. The suggestion was made that the county attorney should be required to, at least, render opinions for hospitals.

Jim Clark, representing the County and District Attorneys Association, appeared in support of HB 2007. He said very few county attorneys are qualified to handle suits or give advice on the specialized matter of hospital law which, because of malpractice litigation, has become more technical. Mr. Clark did not believe any county attorneys would refuse to represent hospitals if requested to do so.

HB 2031 - An act concerning the crime of threatening a public officer.

The Chairman stated he introduced the bill because of an "Indictment" (Attachment No.1) written by people who are not satisfied with the way government is run. The indictment names certain people, most of whom are judges, and contains a threat that they should be killed. He noted the same proposal was not acted upon last session, and he believed it should be reconsidered.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,  
room 526-S, Statehouse, at 3:30 ~~x~~m./p.m. on January 17, 1983.

Jim Flory, representing the Attorney General's Office, spoke in support of HB 2031. He said the Attorney General believes the bill will bridge the gap in existing law. There have been problems, and threats have been made to public officers. The bill will assist prosecutors in dealing with persons who make threats.

The question was raised if a person would be convicted if he did not know the victim was a public officer. The suggestion was made that provisions be tied in with the function of public officer. Mr. Flory suggested adding, in Section 1(a), line 21, after "public officer", "with respect to official duties". A statement in the law would help in holding challenges in court.

A member questioned if terroristic threats were included in the bill's provisions. Mr. Flory said the element of intent of terrorism had to be considered which would be more difficult to do under existing law than under this proposal.

Col. David Hornbaker, representing the Kansas Highway Patrol and the Kansas Peace Officers Association, said present statutes are inadequate and gave a statement in support of HB 2031 (Attachment No.2).

Mr. Clark spoke in support of HB 2031. He believed it filled the gap between terroristic threats and soft areas. County and district attorneys need the assistance its provisions will supply.

Adrian Farver, representing the Kansas Sheriffs Association and the Kansas District Magistrate Judges Association, said these groups support the bill. He suggested language be added to broaden provisions to cover all judges in district courts such as associate and magistrate judges.

Marjorie Van Buren, representing the Judicial Center, supported HB 2031 and noted threats to judges are not unusual. Although most are not carried out, threats create pressure conditions for judges. She suggested the bill should include all judges.

The Chairman called attention to the January 26 meeting when HB 2008 and HB 2009 will be heard. He said the agenda will be set for meetings each Tuesday at 2:30 p.m. He urged members to get suggestions for agendas to him by this time.

The meeting was adjourned at 4:15 p.m.

WE THE PEOPLE of the United States, in Order  
to form a more perfect Union, establish Justice,  
insure domestic Tranquility, provide for the common  
defence, promote the general Welfare, and secure the  
Blessings of Liberty to ourselves and our Posterity,  
do ordain and impanel this Citizens Grand Jury for  
the sovereign State of Kansas.

So done in the day of YAHWEH  
Nov. 13 th. 1982

" INDICTMENT "

CITIZENS GRAND JURY  
FOR THE  
STATE OF KANSAS

We the Government (the people or the body politic) assembled and impanelled this day, November, 13th 1932 in pursuance to the 9th Amendment of the Constitution of the United State, and the Constitution for the State of Kansas, and all organic laws of the United States.

I. A Citizens Grand Jury is lawfully impanelled for such purposes as follows;

- A. To determine and declare certain charges against persons on the public payroll of the State of Kansas, in the matter of unlawfull arrests and trials of soveriegn individuals of the Republic of Kansas.
- B. To provide for the arrest and confinement of all persons named in this Indictment or for their apprehension by citizen or citizens posses.

II. The following named employees on the public payroll of the State of Kansas, have conspired in use of armed force or the threat of said force, to unlawfully apprehend soveriegn citizens of the State of Kansas. And to bring them into thier " Quasi Jurishdiction" in such a manner as to violate his(or her) Constitutional rights as a citizen of the Republic of Kansas.

Those persons charged reads as follows;

1. Steven P. Flood HAYS
2. Tracy D. Klinginsmith Holton
3. William Stevenson Brown CO.
4. Keith Willoughby Colby Hillcity
5. Larry L. Courser Landon
6. John Brookens Pottawatomie
7. Michael J. Malone Lawrence
8. Richard D. Rogers Topeka (Federal)
9. Donald Smith Dodge City
10. Keaton Duckworth Elkhart

III. The aboved named persons on the public payroll of the State of Kansas have committed the crimes of Malfeasance and misfeasance in office, conspiracy to obstruct justice, in violation of thier respective oaths of office in the conduct of unlawful trials, unlawful siezure of personal property, and the unlawful threat of Military Force against soveriegn citizens of the Republic of Kansas, under thier "Quasi Jurish-diction" of which have been testifide to before this Citizens Grand Jury.

IV. Each and every person named in this indictment have had thier criminal acts witnessed by citizens appearing by sworn affidavit before the Citizens Grand Jury, therefore;

A. All sheriffs of the Republic of Kansas are hereby directed to apprehend and confine said persons named by this indictment and to hold them prisoner for a term of not less than three years from date of apprehention.

B. Pending apprehention and confinement by the sheriffs or any sheriffs posse of the State of Kansas. Said persons named in this indictment are hereby declared outlaws, and maybe aprehended by any citizens or citizens posse, by any means possible or that they deem necessary.

C. That the action of the Citizens Grand Jury are lawful acts, in accordance with the supreme law of the land. That all ellected or appointed officals of government (State) or Federal agency are subserviant and subject to its action and determination. Any person attempting to interfere with the actions and determinations of said Citizens Grand Jury, will be subject to arrest and prossecution in accordance with the law of Posse Comitatus. Others found to be conspiring with said Outlaws, are listed along with and indicted as conspiritors and are to be apprehended and held as stated in this indictment, and such orders of arrest

will declare such persons to be outlaws and they shall be subject to apprehension by any citizen of the United States by any means necessary. If county jails are denide by the county sheriffs for incarceration of said outlaws, or the act of deceit is used to free said outlaws by the sheriffs then said outlaws will be buried in Potters field.

Executed this 13 th day of Nov., 1982.

Wayne Roberts  
Former Citizens Grand Jury

Copies to be sent to all Sheriffs in the State of Kansas,  
so ordered and done.

SUMMARY OF TESTIMONY  
BEFORE THE HOUSE JUDICIARY COMMITTEE  
1983 LEGISLATIVE SESSION

HOUSE BILL 2031

BY

COLONEL DAVID HORNBAKER  
KANSAS HIGHWAY PATROL

January 17, 1983

The Patrol supports this bill. Present Kansas statutes are inadequate in this area and do not directly address the intent of this bill. As presently designed, the statutes would address these acts only after the fact.

The proposed statute addresses officials of all three levels of state government and more particularly, those who are vital to the orderly function of state government. The bill would help insure that the operation is not threatened or interrupted.

Officials addressed in the bill, by virtue of their high offices and the requirements of those offices, will render decisions or take actions that may be unpopular or upsetting to certain segments of the populace. This can never change. It is possible to change the ease and impunity with which these threats are delivered.

Concern in this regard is not without basis. Thirty-five such threats against the Governor were recorded in 1982 alone. Dissidents were intercepted not only at his office but at the official residence.

We would submit that these officials are entitled to the measure of protection afforded by this bill. Hopefully, it would prove a deterrent and will serve notice to dissidents that threats against these officials will not be tolerated.

We urge your favorable consideration of this bill.