

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Elwaine F. Pomeroy at
Chairperson

10:00 a.m./p.m. on March 15, 1983 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~ were: Senators Pomeroy, Winter, Burke, Feleciano, Gaar,
Hein, Hess, Mulich, Steineger and Werts.

Committee staff present: Mike Heim, Legislative Research Department
Mark Burghart, Legislative Research Department

Conferees appearing before the committee:

Justice David Prager
Jerry Palmer, Kansas Trial Lawyers Association

House Bill 2112 - Place of trial for civil actions.

The chairman explained the bill was introduced at the request of the Kansas Judicial Council, and it was worked by the Civil Code Committee. He recognized Justice David Prager.

Justice Prager explained the bill to the committee. He stated it is designed to take a remedial step to give the courts flexibility. Committee discussion with him followed.

House Bill 2113 - Time of commencement of civil action.

Justice Prager explained the bill was introduced at the request of the Kansas Judicial Council. The House committee amended the bill to provide that the court may extend the normal 90-day period for obtaining service of process by 30 days upon a showing of good cause by the plaintiff. He stated the amendment was requested by Representative Peterson. The chairman inquired if the committee should reword subsection (b), if they decide to leave the House amendment in the bill? Justice Prager answered, yes. A committee member inquired if the net effect is to extend the statute of limitations? Justice Prager answered, yes; it extends the time for relating back.

House Bill 2115 - Consolidation of multidistrict litigation.

Justice Prager explained this bill was introduced at the request of the Kansas Judicial Council. The bill is intended to allow for the more efficient use of the court system when related causes of action exist in several different judicial districts. A committee member inquired for the reason of the House committee amendment. A staff member explained it was the suggestions of the Kansas Trial Lawyers. Committee discussion with him followed.

House Bill 2116 - Jury instructions on lesser included offenses.

Justice Prager explained the bill was introduced at the request of the Kansas Judicial Council. The bill is intended to prevent a defendant from objecting to the giving of instructions on lesser included offenses and then using such failure to have the case reversed on appeal. The bill is an amendment to the criminal code. Committee discussion with him followed.

House Bill 2112 - Place of trial for civil actions.

Jerry Palmer testified the amendment in Section 1(a) came at the request of the Kansas Trial Lawyers. In regard to the choice of the forum by the plaintiffs, the plaintiff does have some control of that forum, and they feel that consideration

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 15, 1983

House Bill 2112 continued

needs to be restated. There is a concern that an easy way to get rid of a case is to transfer it. Mr. Palmer stated they are withdrawing their amendment on House Bill 2115, since House Bill 2112 has been altered.

House Bill 2113 - Time of commencement of civil action.

Jerry Palmer testified this bill is a good choice of legislation as it now stands. They support the language that was suggested by the chairman; it is appropriate.

House Bill 2115 - Consolidation of multidistrict litigation.

Jerry Palmer testified this bill has great concern by their membership on the choices of forum by the plaintiff. He suggested the committee pass the amended version of House Bill 2112, and pass House Bill 2115 as originally introduced.

House Bill 2116 - Jury instructions on lesser included offenses.

Jerry Palmer testified the criminal defense lawyers recommended this legislation. His organization does not oppose this bill. Committee discussion with him followed.

Senator Mulich moved that the minutes of February 17, 1983, be approved; Senator Gaar seconded the motion, and the motion carried.

The meeting adjourned.

3-15-83

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
William Andrews	Topeka	KBar Assn
Dr. Nequell	Topeka	Jud. Con.
David Drager	Topeka	Judicial Council
Pat Ruzzeck	✓	Budget Division
William G. Selinus	✓	KTLA
Jerry Palmer	✓	"
Guss Clark	✓	KC DAA
M. C. Germann	✓	Kc Railroad Association
Lamy Humes	Lawrence	Feinegers Staff
M. Hawes	Topeka	Cag. Jour.