

MINUTES OF THE House COMMITTEE ON Agriculture and LivestockThe meeting was called to order by the Chairman, Bill Fuller at
Chairperson9:00 a.m./p.m. on February 15, 1984 in room 423-S of the Capitol.

All members were present except: Rep. Solbach, who was excused.

Committee staff present:

Raney Gilliland, Legislative Research Department
Norman Furse, Revisor of Statutes Office
Kathleen Moss, Committee Secretary

Conferees appearing before the committee:

Rep. Marvin Smith
Jon Wilson, Attorney for Kansas Corporation Commission

The meeting was called to order by the Chairman, who directed attention to the two bills that were introduced at the request of the Committee, concerning appropriation for research and grain market development, and noted they had received dual referral. He also called attention to the Friday meeting which is to continue the hearing on "bait and switch" practices in the sale of meat.

The Chairman announced that a hearing had been scheduled on HB 2839, concerning mining and quarrying, and recognized Rep. Marvin Smith, the sponsor. He told the Committee that his proposal provides for an excavation formula to avoid damage to adjacent property. He said that while there is relief within the courts, owners of adjacent property should not have to make expenditure to protect themselves. (See Attachment 1.) There was discussion relative to the effect of such legislation on the Federal Land Reclamation Act and on the coal mining industry.

Jon Wilson, Attorney for the Kansas Corporation Commission, appeared in opposition to HB 2839. He told the Committee that he represents the Kansas Mined-Land Conservation and Reclamation Board. He said the proposal would not apply to quarries but would apply to the mining of coal, and would affect Southeast Kansas. He expressed the opinion that coal mines should be exempt.

Staff explained the penalty provision, which appears on Line 25 of the bill. There was discussion about adding a "grandfather clause" to the bill.

The Chairman told the Committee that SB 518 was introduced to correct a printing error in the statutes. Staff explained that the statutes do not reflect the legislation passed by the legislature and signed by the Governor, and that the bill inserts language which was left out of the statutes.

It was moved by Rep. Buehler and seconded by Rep. Hamm that SB 518 be recommended favorably. Motion carried.

The meeting was adjourned at 9:30 A.M. The next meeting is scheduled for Thursday, February 16, 1984, 9:00 A.M., Room 423-S.

STATE OF KANSAS

MARVIN E. SMITH
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MEMBER: AGRICULTURE AND LIVESTOCK
COMMERCIAL AND FINANCIAL
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HOUSE OF
REPRESENTATIVES

HB 2839

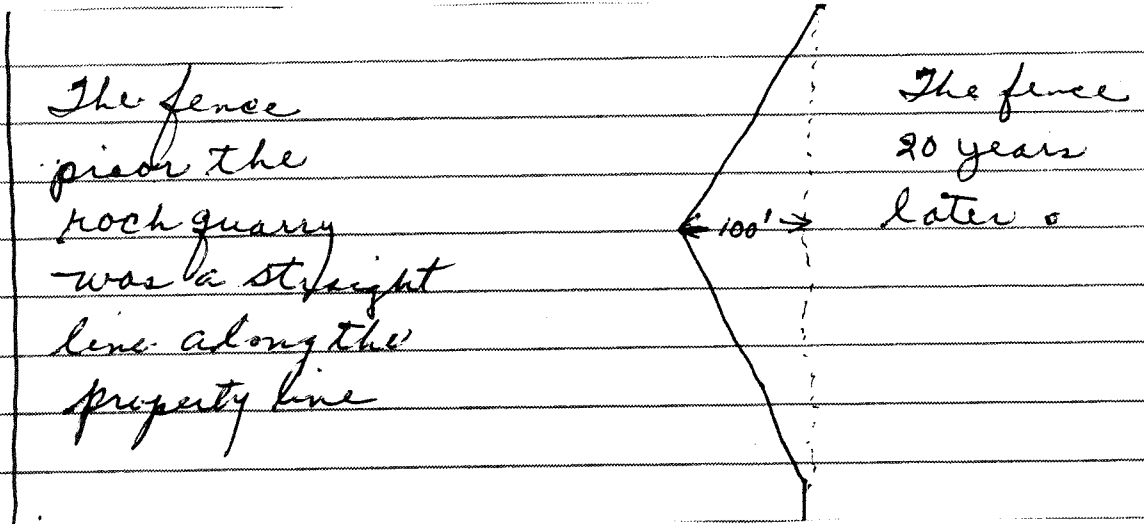
Property rights are guaranteed in the constitution - but are lacking in full protection under certain conditions.

Some areas of our state the soils have a tendency to slip, when excavation occurs.

We have some examples of rock quarries and fill dirt (mining) that have created a loss of property on the adjacent landowner.

HB 2839 provides it is wrong to cause excavation by not less than setback determined by depth of the excavation formula. The bill provides for each one foot of depth - one foot set back.

We have an example of a rock quarry about 20 years ago which set back about 30 feet from property line. Then they went down approximately 200'. Now the land on the adjacent property has slipped approximately 100' back from the property line. Thus denying the use of approximately 1 acre of land.



So, if excavation going down 100' then they must stay back 100'. Now for those areas where soils are stable and this appears too punitive. Maybe an amendment allowing for variance signed by parties involved prior to excavation.

Attch. 1