

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Robert Frey at  
Chairperson

10:00 a.m./~~p.m.~~ on January 28, 1985 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~ were: Senators Frey, Hoferer, Burke, Feleciano, Gaines, Langworthy, Parrish, Talkington, Winter and Yost.

Committee staff present:

Mary Torrence, Office of Revisor of Statutes  
Mike Heim, Legislative Research Department  
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

Randy Hearrell, Kansas Judicial Council  
Justice David Prager  
Judge William Carpenter, Administrative Judge Shawnee County  
Ann Heberger, League of Women Voters of Kansas  
Ruth Wilkin, Citizen  
Ron Smith, Kansas Bar Association  
Bill Sneed, Kansas Association of Defense Counsel  
Don Schnacke, Citizen

Senator Parrish presented two proposals for introduction as committee bills. The first proposal concerned child in need of care information system that will serve as a repository of child in need of care information which is collected by juvenile justice agencies and reported to the system. Senator Parrish moved that the bill be introduced. Senator Burke seconded the motion. The motion carried. The second proposal concerned authorizing the appointment of special advocates. Following the explanation, Senator Parrish moved that the bill be introduced. Senator Burke seconded the motion. The motion carried.

Senate Bill 38 - Procedure for change of judge.

Randy Hearrell introduced Justice David Prager, who serves on the Civil Code Advisory Committee of the Kansas Judicial Council. The committee consists of supreme court judges, law professors and several lawyers.

Justice Prager explained this bill involves situations where one of the party feels they won't have a fair trial if a certain judge sits. The committee came up with a procedure they thought would work well. Under present statute, if the party believes the judge is prejudice or has an interest in the subject matter; the party files an affidavit that sets forth the facts that state why the judge should not sit. It is referred to another judge. If he finds this is true, the judge won't sit. He would be disqualified. This causes problems with lawyers and embarrassment for the judge. Most judges do not want to sit if there is a conflict. They have plenty of cases, so another judge from another district can come in to sit. During committee discussion, a committee member inquired if there would be a tendency to go shopping for judges? Justice Prager replied judges can be changed, only once under the bill. The committee member pointed out the spelling of "attorney" in line 34 of the bill.

Ron Smith, Kansas Bar Association, testified the KBA's legislative committee finds no problem with the concept of informal hearings for determination whether a judge should excuse himself or herself from hearing a matter. The bar favors strong laws promoting efficient

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,  
room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on January 28, 1985

Senate Bill 38

administration of justice. The committee recommends the new language be stricken in lines 62 through 64. He also pointed out a spelling error in line 34, the word "attorney". A copy of his testimony is attached (See Attachment I). In response to a question by a committee member, Judge Prager replied the way it has been, you are only entitled to do this once; now, the limit is one change of judge where party has reason to believe personal bias.

Bill Sneed, Kansas Association of Defense Counsel, testified he was here in support of the bill. His association believes for all the reasons given earlier that this is a good bill. It provides the ability to work out with the judge some of the gray area problems you get into when you are in practice. Mr. Sneed stated they would have concern with expanding for the same reason that Judge Prager does.

Judge William Carpenter testified he does have an interest in this bill. He stated he doesn't think the present law should change at all. There should be one chance on this affidavit at one time. If there is valid ground, another action should be filed to disqualify that judge. If not restricted to one judge, he feels it would happen more and more.

Senate Bill 39 - Ballot proposition on method of selecting judges of the district court.

Don Schnacke testified he feels the change is biased. He explained in 1974 Shawnee County voted in favor of retaining the nonpartisan selection of judges; in 1984 the petition was filed and they had the matter before the electorate. The vote was to retain the same system. Their campaign was extensive, and it was clear what the issues were. Copies of campaign material is attached (See Attachments II).

Senate Bill 45 - Frequency of elections on method of selecting judges.

Don Schnacke testified he is in support of the bill. He stated the ten year period is reasonable. The system shouldn't be tested every four years.

Judge Carpenter stated he does not object to the bill. He would not agree with the concept.

Senate Bill 39

Judge Carpenter stated to have this come up every four years doesn't make any sense, if in nonpartisan system and trying to stay out of politics. You don't want to put the judges into that position. This became a hotly contested issue in Shawnee County, and feel some people will want this every four years. The people voted to keep the present system. It doesn't make sense to go through this again every four years. This is distracting to the system. It is much more consistent with the judicial resources not to have these come up every four years.

Ann Heberger, League of Women Voters of Kansas, appeared in support of the bill. She testified the league believes that the language used to instruct voters, no matter what the issue, should be as easy to understand as possible, and this bill seems to fit that description.

CONTINUATION SHEET

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Senate Bill 45

Ann Heberger testified in support of the bill. She testified the league supports the proposed statute change in the bill that states the method of electing judges be resubmitted to voters in any judicial district not more than once in every eight years rather than once in every four years. A copy of her testimony on Senate Bill 39 and 45 is attached (See Attachment III).

Ruth Wilkin of Shawnee County testified in support of the bill. She stated she didn't think any group should have to go through what we went through this last year, every four years.

Senate Bill 39

Ruth Wilkin testified she agreed with Don Schnacke's concern with the language in the bill. She has no objection to making the system simpler. The language was confusing to everybody. They went out and educated the people in Shawnee County what the merit system is all about.

Ron Smith testified this bill merely attempts to simplify the ballot language presented to voters in both situations. The bar requested introduction of the bill. It is a straight forward bill, and KBA recommends support, and we hope you'll send it to the Senate Floor favorably for passage. A copy of his testimony is attached (See Attachment IV).

Following hearings on the bills, Senator Frey appointed Senators Gaines, Winter and Parrish as a subcommittee to work with staff to prepare language for Senate Bill 39.

The meeting adjourned.

Copy of guest list attached (See Attachment V).



RON SMITH  
Legislative Counsel



KANSAS BAR  
ASSOCIATION

SB 38  
Senate Judiciary Committee  
January 28, 1985

Mr. Chairman and members of the Judiciary Committee.  
My name is Ron Smith. I am legislative counsel for the Kansas Bar Association. KBA is a professional association representing over 4,000 member lawyers and judges in this state.

The KBA's legislative committee has looked at this bill. We find no problem with its concept of informal hearings for determination whether a judge should recuse himself or herself from hearing a matter. KBA favors strong laws promoting efficient administration of justice.

However, we believe the new language on page 2, line 62 through 64 is contrary to the concept of efficient administration of justice. The language limits to once the number of times a change of judge may be requested under K.S.A. 20-311d(c)(5).

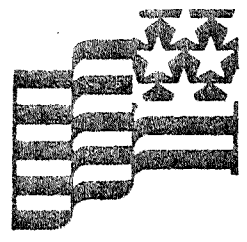
While elimination of "judge-shopping" is laudable, I do not think it is a sufficient problem for this remedy. It is not the attorney filing the motion whose rights to due process are colored by the new language; rather it is the client of the attorney who may be forced to go to trial with a biased judge sitting on the bench who may not be given a fair day in court.

We recommend the new language be stricken in lines 62 through 64. I would also call your attention to a spelling error of the word "attorney" in line 34.

Attach. I 1/28/85

# Let's ELECT Our JUDGES It's The AMERICAN WAY

HITLER SAID IF YOU TELL A LIE BIG ENOUGH, OFTEN ENOUGH, AND LOUD ENOUGH, PEOPLE WILL SOON BELIEVE IT. HERE ARE TWO ERRORS (WE WILL NOT CALL THEM LIES) WITH CORRECTIONS, ABOUT THE PRESENT SYSTEM OF SELECTING OUR JUDGES:



## ERROR NO. 1 — "TAKES JUDGES OUT OF POLITICS"

**WRONG!** It does not take the judges out of politics. Any lawyer wanting to be judge under the present system must politic like the devil with the little secret group with power to nominate him to the governor. He must get his lawyer buddies and other influential people to write, call and otherwise politic with the little secret 7-person nominating commission. It is the fiercest, politicking imaginable. But it is all done in secret and out of the public eye. It is the most sophisticated kind of under-the-table, backroom politicking. And those who pick our judges are accountable to nobody.

**WE SAY, LET'S RETURN THE SELECTION OF OUR JUDGES TO THE GOOD OLD AMERICAN POLITICS OF OPEN, FREE, ABOVE-BOARD ELECTIONS BY THE PEOPLE.**

## ERROR NO. 2 — "IT'S THE MERIT SYSTEM"

**WRONG!** The legislature prescribes the qualifications for all those wanting to run for judge. All candidates for judge must be lawyers in good standing and with at least five years of experience. And who says seven secret people are as qualified to pick our judges as we the people. The American electorate has done pretty well for 200 years in preserving and maintaining constitutional government, by allowing the people, at the polls, to freely and openly choose those entrusted with the power to govern us. Americans simply do not trust some elite group of unknown power brokers to make such important choices for them.



**WE SAY, LET'S REJECT THE INSULT THAT ORDINARY AMERICANS DO NOT HAVE THE SENSE TO RECOGNIZE AND CHOOSE MERITORIOUS JUDGES AND ELECT THEM AT THE POLLS LIKE OUR OTHER LEADERS IN GOVERNMENT.**

**A LIE BY ANY OTHER NAME IS THE SAME. DO NOT ALLOW YOUR PRECIOUS RIGHT TO VOTE TO BE STOLEN AWAY BY FANCY WORDS, SLICK SLOGANS AND HOLLYWOOD TV ACTORS.**

## VOTE #1 • LET'S ELECT OUR JUDGES

Pol. Adv. pd. for by Comm. to Elect Judges, Ken Carpenter, Treas.

11/3/84 Oca

Attach. II  
1/28/85



WED 10-31



**VOTE #1 • LET'S ELECT OUR JUDGES**  
DO NOT ALLOW YOUR RIGHT TO VOTE  
TO BE STOLEN AWAY BY FANCY  
WORDS AND HOLLYWOOD ACTORS!

# AN OPEN LETTER TO THE VOTERS FROM ONE OF YOUR NEIGHBORS

Dear Voters:

We need to return to the democratic process on November 6. Much has been said about the need to remove judges from the political arena. The current system is political — not non-partisan. Under the current system persons vying for a judgeship must politick with a handful of people. We believe the time is ripe to return the selection of our judges to the voters of Shawnee County.

The current system is not a "merit" system. What do Shawnee County voters lack to recognize a qualified candidate for a judgeship position? Historically — and in fact for 100 years — the voters of this county elected good judges. What qualifies a person to be a judge? That he be from a large and powerful law firm? That he play golf with the chairperson of the nominating commission? Or that he be fair and impartial! The voters of this county can most certainly recognize fairness and impartiality. To suggest otherwise is to suggest that the voters are incompetent — to suggest otherwise is to insult the integrity of the electorate of this county.

The anti-election groups suggest that the people are heard through the retention vote when the voters can say "yes" or "no" to this or that judge. This is not so! The retention vote means NOTHING! The dynamics of politics insists that there be open campaigning, where issues are aired and questions are answered. Under the retention system there is no such discussion of relevant issues. Under the retention system there is no avenue for the people to be informed about their judges. If the retention vote is to be genuinely meaningful **JUDGES MUST POLITICK!** And even if the people removed a judge, the vacancy would be filled, again, by appointment. Where, then, is the voice of the people?

Democracy is at stake on November 6! We cannot tolerate continued erosion of our right to vote! We cannot allow the judicial branch of county government to remain unchecked! Reclaim your right to vote — Vote #1 to elect judges.

*John Ambrosio*



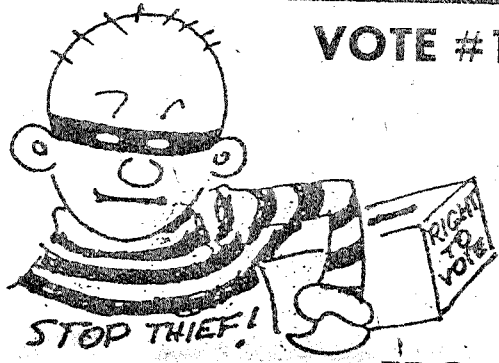
**THE ANTI-ELECTION FORCES HAVE A DECEPTIVE SLOGAN: "NO POLITICS IN OUR COURTS." WE SAY, "NO MORE SECRET POLITICS IN OUR COURTS." THE PRESENT SYSTEM SELECTS OUR JUDGES FOR US BY A LITTLE 7-MEMBER GROUP, IN SECRET. POLITICS IS NOT A DIRTY WORD, BUT SECRET-POLITICS IS. WE NEED TO RETURN SELECTION OF OUR JUDGES TO THE GOOD, CLEAN, OPEN AMERICAN POLITICS OF THE PEOPLE AT THE VOTING BOOTH. WE NEED TO REMOVE SELECTION OF OUR JUDGES FROM THE DIRTY, SECRET POLITICS OF THE PRESENT SO-CALLED APPOINTIVE SYSTEM.**



**BECOME A SECRECY-BUSTER! WE DON'T NEED SECRECY IN OUR COURTS. LET'S ELECT OUR JUDGES AND THEREBY REMOVE ALL SECRET POLITICS FROM OUR COURTS.**

Pub. Ad. pd. for the County to Elect Judges. Ken Carpenter, Treas.

*Attach. 14*



**VOTE #1 • LET'S ELECT OUR JUDGES**  
**DO NOT ALLOW YOUR RIGHT TO VOTE**  
**TO BE STOLEN AWAY BY FANCY**  
**WORDS AND HOLLYWOOD ACTORS!**

# **AN OPEN LETTER TO THE VOTERS**

**FROM ONE OF YOUR NEIGHBORS**

**Dear Voters:**

I am sick and tired of judges and silk stocking judgemakers telling we, the voters, that we are too stupid to choose good judges! Never have the people of Shawnee County been insulted to such a degree.

I am ashamed of judges, public officials, and bar associations who endorse the secret closed door appointment of judges while we pay their salaries.

Most people in Kansas and in America have the right to elect their judges (32 states still elect county judges - more than half the counties in Kansas have returned to election of judges). But we in Shawnee County do not have that right. A small group of power brokers are working hard and spending a great deal of money to try to stop us from voting to elect our judges.

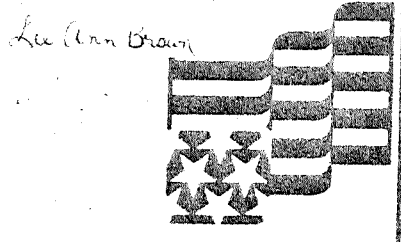
We need fair and impartial judges elected by the voters — not kings with lifetime jobs who serve only their friends and benefactors. The courts should belong to all the people, not just to a select group.

It is sad that a group of local citizens have had to spend so much time and effort in the past few months fighting against powerful forces in this county — trying to stop them from continuing to steal away our right to elect our judges. We should all take advantage of this opportunity and demonstrate that we value our right to vote — that one person/one vote is the only way for a true democracy to live — let's vote to elect our judges on November 6!

**SAMPLE BALLOT**

Judges of the district court in the 3rd Judicial District shall be selected as follows: (vote for only one of the following methods)

- 1. For election of judges of the district court by the voters
- 2. For nonpartisan appointment of judges of the district court by the governor upon nominations by a district nominating commission and subject to retention in office by a vote of the voters.



**LET NOV. 6 BE A NEW DECLARATION OF INDEPENDENCE DAY FOR OUR COUNTY. LET US RECLAIM OUR BIRTHRIGHT TO ELECT THOSE WHO WOULD GOVERN US. VOTE #1 • LET'S BEGIN AGAIN TO ELECT OUR JUDGES**

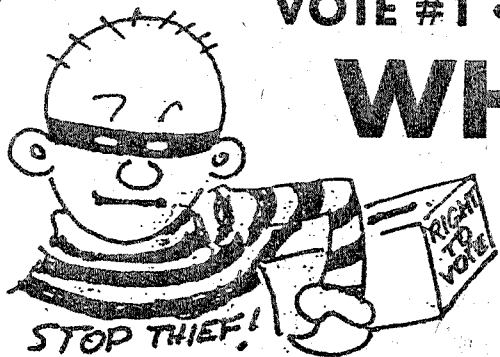
Pol. Adv. pd. for by Comm. to Elect Judges, Ken Carpenter, Texas

*Attach II*



11/2/84

VOTE #1 • LET'S ELECT OUR JUDGES



# WHAT ARE THE JUDGES AFRAID OF?

**WHY ARE OUR JUDGES TURNING ASIDE FROM THEIR JUDICIAL DUTIES THAT WE PAY THEM \$51,400 A YEAR TO PERFORM, TO SPEND COUNTLESS HOURS AND MANY THOUSANDS OF DOLLARS IN A SHAMELESS CAMPAIGN TO STEAL AWAY THE RIGHT OF THE PEOPLE TO DIRECTLY ELECT THE JUDGES? WHAT MOTIVATES THIS FEVERISH ACTIVITY?**

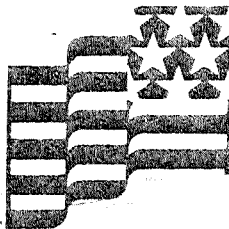
On August 17 our judges, none of whom are now elected, wrote a letter to the supreme court, none of whom are now elected, to get permission from a so-called judicial ethics advisory committee, none of whom are elected, to wage an all-out war against the people. On August 28, as expected, they got permission, and began immediately to do everything in their power to stop the right of the people to elect the judges. Yet, in a Capital-Journal article of Sept. 23, the judges pretended to be neutral, saying: "We don't want to be drawn into a debate with the proponents of a change." The article was entitled: "Judges Avoid Selection Fracas." All the while, the judges were working mightily behind the scenes, using their enormous judicial powers to "persuade" fearful lawyers and others with resources to help them "keep politics out of our courts" (a euphemism for: "Helps us keep our jobs without having to answer to the people at the polls"). They call it judicial "arm twisting," and the average citizen would be amazed at the in terrorem effect it has on lawyers.

In a Capital-Journal article of Sept. 27, the mask came off. That news story revealed that our judges have engaged Hollywood actors and slick advertising experts, at what must be outlandish expense, to help them in their selfish campaign. The estimated cost is in excess of \$100,000!

**WE REPEAT, WHAT ARE THE JUDGES AFRAID OF? WHY ARE THEY AFRAID TO FACE US, THE VOTERS, AND STAND FOR RE-ELECTION (OR ELECTION)? DO YOU THINK IT COULD BE THAT IF OUR JUDGES, BEGINNING IN 1986, HAVE TO FACE RE-ELECTION OVER OPPOSITION, THEY WOULD HAVE TO ANSWER SOME VERY HARD QUESTIONS, SUCH AS:**

1. Why do we need twice as many judges today as we had 10 years ago, in a county that is no larger than it was 10 years ago?
2. Why have judicial salaries, staffs, facilities, and budgets doubled, tripled, and quadrupled in 10 short years since we lost our right to elect the judges?
3. Why did our judges spend enormous resources of judicial time (which we pay for), \$100,000 of money, and powerful, inordinate influence over lawyers and others fighting our right to begin again to elect our judges?

**SOMETHING IS RADICALLY WRONG FOR OUR JUDGES TO BE CARRYING ON IN SUCH A WAY, AND IF THERE WERE NO OTHER REASON THAN THAT, WE SHOULD VOTE #1 ON NOV. 6, AND BEGIN AGAIN TO ELECT OUR JUDGES. JUDGES WHO ARE NOT ELECTED BY THE PEOPLE MAY TEND TO BECOME LAZY, ARROGANT, TYRANNICAL, AND SPENDTHRIFT WITH TAXPAYERS' MONEY. WHY TAKE THE CHANCE? WE AMERICANS DECIDED LONG AGO THAT THE PEOPLE AT THE POLLS MAKE THE WISEST CHOICES IN SELECTING THOSE WHO GOVERN US — INCLUDING JUDGES.**



Pol. Adv. pd. for by Comm. to Elect Judges Ken Carpenter, Treas.

*catch II*

# FALSE STATEMENTS SHOW DESPERATION, FEAR



THE ANTI-ELECTION FORCES ARE SPENDING SOME \$50,000 TO PRINT AND MAIL OUT A SLICK, PROFESSIONALLY PREPARED, FOLDER ENTITLED "NO POLITICS IN OUR COURTS". A COPY OF IT ALSO APPEARED IN A HUGE CAPITAL-JOURNAL AD ON SUNDAY, OCT. 28. DO NOT BE MISLED. IT IS FULL OF HALF-TRUTHS, AND OUTRIGHT LIES.

## DO NOT ALLOW FALSE STATEMENTS TO STEAL AWAY YOUR RIGHT TO ELECT YOUR JUDGES

The false statement of the slick ad is that 35 states now appoint their judges, and only 15 elect them.

**THE TRUTH IS**, that we sat down and telephoned the secretary of state of all 50 states, and only 19 states appoint their judges, while 31 **ELECT THEM!** The anti-election forces are speaking falsely. Such a vital matter could not be accidental. It had to be deliberate. **IF THEY WILL DELIBERATELY LIE ABOUT SUCH A VITAL POINT, CAN THEY BE TRUSTED TO TELL THE TRUTH ON ANYTHING?**

The false statement of the slick ad is that they want "No Politics In Our Courts", and that the present appointive system is not political.

**THE TRUTH IS**, that our present system involves secret politics behind closed doors. Any lawyer desiring a judgeship must politic like the devil with a little group of seven **JUDGE-MAKERS**, in secret. Such politicking is furious, behind the scenes. It is done by powerful lawyers and other political heavyweights to get their buddies nominated by the little group in secret. Then the three lawyers who win that bitter political race with the secret-7 are submitted to the governor who appoints one of them. You would not believe the politicking that goes on with the governor! It's done in secret, with secret telephone calls, letters, and telegrams to the governor. The people never know what political deals are cut to get this or that lawyer appointed judge. And the lawyer who wins that political race and becomes judge has enormous political debts to pay, as judge, to the secret group of friends who effectively politicked in secret to get him the judgeship.



WE SAY, "NO SECRET POLITICS IN OUR COURTS." POLITICS IS NOT A DIRTY WORD, BUT SECRET-POLITICS IS. WE NEED TO RETURN THE SELECTION OF OUR JUDGES TO THE GOOD, CLEAN, OPEN AMERICAN POLITICS OF THE PEOPLE AT THE VOTING BOOTH. WE NEED TO REMOVE SELECTION OF OUR JUDGES FROM THE SECRET POLITICS, OF THE PRESENT SO-CALLED APPOINTIVE SYSTEM.

BECOME A SECRECY BUSTER! VOTE #1 ON NOV. 6. WE DON'T NEED SECRECY IN OUR COURTS. LET'S BEGIN AGAIN TO ELECT OUR JUDGES AND REMOVE ALL THE SECRETS.

## ELECT OUR JUDGES

Call 141-1000 for more information to Elect Judges, Ken Carpenter, Treas.

11-3-84 (over)

attach II

## Dear Shawnee County Voters:

The following is an open letter from Kenneth M. Carpenter, Treasurer of the Committee to Elect Judges. During the campaign just concluded our Committee ran numerous ads in the Topeka Capital-Journal in support of the election of judges. I feel that these ads have contained certain statements with which I cannot be associated with under any circumstances, for the following reasons:

1. These ads have attacked the judges of the Shawnee County District Court, this is unacceptable.

2. While I oppose the current system of selecting judges, I cannot and do not endorse the allegations made in these ads that Judges have spent "countless hours. . . many thousands of dollars. . . in a shameless campaign to steal away. . . the right to vote."

3. I do not believe these actions are those of the judges of the Shawnee County District Court.

4. It has been claimed in these ads that the number of judges has doubled since 1974. This is a misstatement of fact. The fact is that three new judgeships have been created since 1974.

5. Judicial salaries have increased since 1974, however, I feel that they should have increased and the allegations that costs have "doubled, tripled or quadrupled" cannot be factually supported.

6. I do not accept the assertions that "judges have spent enormous resources of judicial time and \$100,000."

7. I feel that the statements and allegations in these ads detracted from the issue of election of judges. While I believe that these claims were made in good faith by our committee, I believe that they did not give the electorate a fair and accurate perception of the issue.

I believe in our judicial system and the integrity of our judges. My concern is that these ads diverted the attention away from the real issue, "How will our judges be selected, by the few or by the many." My argument is not with the judges, but how they are selected.

I hope this will clarify the record. Many will feel that this letter is a retreat from my support of the election of judges, it is not. This is my personal view and represents only my opinion. This letter is not an endeavor to mend fences with the judges, but to correct an error in judgment and taste. While it is true this should have been done prior to the election, during the election I felt an obligation to the committee and to be bound by their decision. I feel a personal obligation to my own principles to share these matters with the public whose support I sought on behalf of this issue.

Kenneth M. Carpenter

TOP &  
HOUSE  
Shawn  
2-0288

*Attached II*

NO POLITICS

NO POLITICS IN COURT

VOTE NONPARTISAN #2



# LEAGUE OF WOMEN VOTERS OF KANSAS

909 Topeka Boulevard-Annex

913/354-7478

Topeka, Kansas 66612

January 28, 1985

STATEMENT TO THE SENATE COMMITTEE ON JUDICIARY IN SUPPORT OF S.B. 39 and S.B. 45.

Mr. Chairman and Members of the Committee:

I am Ann Heberger speaking for the League of Women Voters of Kansas in support of the ~~concepts~~ purposed concepts in S.B. 39 and S.B. 45.

### S.B. 39

The League supports changes in the statute concerning selecting or electing of district court judges. In our opinion, the existing statute is very confusing to voters, and gives the advantage to the election system over the selection-election system that we strongly support.

We believe that the language used to instruct voters, no matter what the issue, should be as easy to understand as possible, and that S.B. 39 seems to fit that description.

### S.B. 45

The League supports the purposed statute change in S.B. 45 that states the method of electing judges be resubmitted to voters in any Judicial District not more than once in every 8 years rather than once in every 4 years.

Voters in some Judicial Districts have already responded to this issue three times in a relatively short period. League members in Lyon, Wyandotte, Shawnee and Johnson Counties are well aware that it takes just one disgruntled lawyer or citizen to get the required number of signatures to place the issue before the voters.

It is costly in time and money especially to those of us who are interested in retaining the selection method of judges. The League also sees this as totally unfair to judges not knowing from one election (four year period) to the next what their fate is to be. Good judges, we believe, will not care to be subjected to such treatment on what could become a regular event, nor should they be asked to do so.

The League urges your support of both S.B. 39 and S.B. 45.

Thank you for the opportunity to appear before you today.

1/28/85  
Gitch. III



RON SMITH  
Legislative Counsel



KANSAS BAR  
ASSOCIATION

SB 39  
Senate Judiciary Committee  
January 28, 1985

Mr. Chairman and members of the Judiciary committee.

I am Ron Smith, Legislative Counsel for the Kansas Bar Association. KBA is a professional association representing over 4,000 member lawyers and judges in Kansas.

Our legislative policy is decided by a 21-person Executive Council. This past summer, the Bench-Bar committee of KBA decided to recommend this corrective legislation. The recommendation to the Executive Council came in September, before the general election votes in the judicial districts of Shawnee, Johnson and Cowley counties whether to retain nonpartisan judicial selection systems in those districts. The Executive Council at our mid-year meeting last September, approved the basics of the change requested in SB 39.

The Kansas Bar Association took a position in September to be on record as supporting the merit selection of judges in this state. We realize that we have a dual system in place now, that some judges are elected and others are appointed. On balance, however, we support merit selection.

Merit selection of judges is not what this bill is about, however. This bill merely attempts to simplify the ballot language presented to voters in both situations: (1) where the question is one for changing from nonpartisan to partisan election of judges, or (2) changing from partisan to nonpartisan appointment of judges.

1/28/85  
Attach IV

Subsection (d) is new language which simplifies the question submitted to voters on whether to elect judges rather than appoint them.

Former Governor Robert Bennett is the chairman of the Bench-Bar committee of KBA, and but for a conflict would have been here to make this presentation himself. He did ask that I extend to you his regrets in not being here in person, and that if you desired more information on the thinking of the Bench-Bar committee on this matter, he would be glad to attend further hearings on the bill, if necessary.

Both subsections (c) and (d) simply tell the voters what kind of system they currently have, and give them an opportunity to choose a different system. The language tries not to prejudice their vote by the wording.

It is a straight-forward bill, and KBA recommends support and we hope you'll send it to the Senate floor favorable for passage.

Attch. IV