Approved 3-18-86
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

The meeting was called to order by REPRESENTATIVE ROBERT H. MILLER
Chairperson at

1:30 a.m./p.m. on March 17, 1986 in room 526S of the Capitol.

All members were present except:
Rep. Roe

Committee staff present:
Lynda Hutfles, Secretary
Russ Mills, Research
Raney Gilliland, Research
Mary Torrance, Revisor's Office

Conferees appearing before the committee:
Rep. Ed Bideau
Lowell Albeldt
Jim Clark, County & District Attorneys Association
Dwight Parscale, Topeka
Bob Clester
Tom Hanna
Doug Wells
Henry Boeten
Glen Cogswell, Kansas Association of Professional Sureties
Judge Don Allegrucci, 11th District
Judge Herbert Rohleder, 20th District
Kay Falley, Topeka
Reverend Richard Taylor, Kansans for Life at its Best
John Grame
Frank Williams

The meeting was called to order by Chairman Miller. Attention was called to the revised agenda.

Representative Sallee made a motion, seconded by Representative Barr, to approve the minutes of the March 6 meeting. The motion carried.

Chairman Miller explained two recommendations proposed by the Governor. One recommendation would discontinue the Kansas all-sports hall of fame and the other proposal deals with the transfer of certain historic properties.

Representative Peterson made a motion, seconded by Representative Hensley, to introduce the two proposals as committee bills. The motion carried.

HB2961 - appearance bonds

Representative Ed Bideau, co-sponsor of the bill, explained the bill and the reasons it was introduced.

Lowell Albeldt gave testimony in support of the bill which prevents a criminal defendant from being allowed a 90% reduction in bond, and requires only a 10% bond of which 90% is returned to the criminal defendant. Percent deposit bail places the state in the bail bond business and will abolish numerous Kansas businesses and jobs now being performed by private enterprise at no cost to the taxpayers. See attachment A.

Jim Clark, Kansas County and District Attorneys Association, testified in support of the bill with emphasis on Sec. 1(5).

Dwight Parscale, private attorney in Topeka, gave testimony in support of the bill. The percentage bail bond is an expensive system and in the areas he has researched, Mr. Parscale said the jail population has risen 77%. This is a business we can't afford to get into.

Bob Clester gave testimony on behalf of the Kansas Sheriffs Association and the Kansas Peace Officers in support of HB2961. He said it is unreasonable to release a person who has committed a crime without a bond.

Tom Hanna, Shawnee County Commissioner, supports the bill and said he could see no good reason for having a percentage bail bond system. We need to make it tougher for the criminal.

Doug Wells, attorney, gave testimony in support of the bill which is a fair way to establish a uniform policy throughout the state.

Henry Boeten, private attorney, gave testimony in support of the bill.

Glen Cogswell gave testimony on behalf of the Kansas Association of Professional Sureties, in support of the bill. WE need to keep the courts from getting into the bonding business. He said he could see a conflict of interest there. You will not have bondsmen available if this bill is passed. This percentage bail bonding is very expensive.

Judge Don Allegrucci, administrative judge in the 11th District, gave testimony in opposition to the bill. He said they have no problems in the 11th District. The court has inherent power to establish a bonding system. There is no collection of an entire bond and no taxpayer money used. The only interest this bill can serve is a professional bonding system. The 11th District has a successful program. A recognizance bond is used for D & E felonies which are non-violent. We don't use it with a repeater or with someone with no local ties.

Judge Rohleder, administrative judge in the 20th District, gave testimony in opposition to the bill. The 20th District has no problems with percentage bail bonding and it is working well. See attachment B.

Kay Falley, Court Administrator, explained how the Shawnee County Court system works. See attachment C.

Hearings were concluded on HB2961.

HCR5043 - Constitutional Amendments

Representative Robert H. Miller explained the resolution. He said it seemed like the number one issue the legislators are receiving letters on the last couple of years is on the peoples right to vote.

Reverend Richard Taylor, Kansans for Life at Its Best, told the committee he was not a proponent nor an opponent of the resolution. See attachment D.

John Grame gave testimony in opposition to the resolution pointing out Sec. 2 of Article 14 of the Constitution. This resolution is not the proper way to accomplish amending the constitution. You first need to comply with Article 14, Sec. 2. See attachment E.

Frank Williams told the committee that he has found that the framers of the constitution had something in mind when they built the constitution. He also referred to Article 14.

Hearings were concluded on HCR5043.

HB2947 - DUI Diversions

Representative Peterson made a motion, seconded by Representative Hensley, to report HB2947 favorable for passage. The motion carried.

The meeting was adjourned.

Lowell K. Abeldt, a lifetime resident of Dickinson County, is an investor and director in the Talmage Investment Company and a director and secretary of the Board of the Talmage State Bank.

He currently serves as trustee, and loan investment officer for the Jacob Engle Foundation (savings and loan), Upland, California. He is a director of the Turkey Creek Watershed and was charter director. Abeldt is director of the State Association of Kansas Watersheds and currently serving his seventh term as president. He is serving as vice-chairman of the Kansas Public Disclosure Commission and has been on the commission since 1977.

Abeldt is on the Abilene Chamber of Commerce Legislative Committee, the Legislative committee of the Kansas Association of Commerce and Industry, and the board of Governors of the Agriculture Hall of Fame.

He was a member of the Hope Lions Club for 14 years and is a member of the Abilene Noon Lions Club since 1973. He was past president of the Hope and Abilene Lions clubs and currently District Governor 17 A.W. He is a member and past president of the Dickinson County Board of Realtors and currently serving for the second year as director on the Kansas Association of Realtors, 1982 Realtor of the Year.

He is Bible secretary for the Abilene Camp of Gideons International. Abeldt is a member of the Brethren in Christ Church. He is chairman of the Steward and Finance Commission of the Midwest Conference and chairman of the Men's Fellowship (United States & Canada) Brethren in Christ Church.

Abeldt organized and incorporated Central Kansas Agency, Inc., and L & J Properties, Inc. serving as president of both. He is a registered representative in securities for Kansas and Oklahoma.

He was past president (3 years) and director of the Kansas Electric Cooperative, Topeka. He was active as director (14 years) of DS&O Rural Electric Cooperative and then president.

Abeldt has served as community 4-H Leader, on the extension board, township board, church board, telephone company, fire department board and others. He presently has business interests in farm property, apartments, insurance and real estate.

ATTACHMENT A

H. F&SA
3/17/86

House of Representatives
State Capitol
Topeka, Kansas 66612

Re: H. B. 2961

Dear Representative:

This bill requires a judge setting bond for a criminal defendant, to take into account the likelihood of injury to the community or victim of the crime charged, the propensity of the defendant to commit additional crimes while on release, and his record of failure to appear at court proceedings.

This bill prevents a criminal defendant from being allowed a 90 percent reduction in bond, and requiring only a 10 percent bond of which 90 percent of that is returned to the criminal defendant. This bill prevents the criminal from posting only 10 percent of his bond and go free, and when he fails to come to court he loses very little. Ten percent public bonds causes the taxpayer to take the loss and risk while the accused does as he pleases, knowing that a bail agent will not be looking for him. A judge has only to lower the bond to accomplish the same thing, thereby not misleading the non-criminal taxpayer. Why should the state set a bond at $5,000 and then only require the criminal to post $500? If $500 will guarantee his appearance, why not set the bond for that amount in the first instance? It is deceitful to tell the citizens that a criminal has been released on a $5,000 bond, when in truth it is only $500. Money cannot be collected from a bondjumper.

The professional bail agent posts full liability-full responsibility bonds, in whatever amount the judge sets. The bail agent supervises the defendant while on bond, and if he fails to appear in court the bail agent surrenders him to the court; and if the criminal cannot be located the bail agent pays the entire amount of the bond. With percent deposit 'public bonds' none of the above will happen. There would be no full liability-full responsibility bonds, no supervision of the defendant, no bail agent to take the defendant to court, and no one to pay the bond when forfeited. If you or your family were victims of crime what type of bond would you prefer the criminal defendant post. Never in history has a forfeited deposit bond paid off. These are public bonds paid for by the taxpayers, and if the defendant is rearrested by our already over burdened police officers, that cost is also paid by taxpayers, along with the additional crime committed by bondjumpers.

Percent deposit bail places the state in the bail bond business, and will abolish numerous Kansas businesses and jobs now being performed by private enterprise at no cost to the taxpayers. Percent deposit (Public Bail) benefits only the criminal at the non-criminal taxpayers' expense. Why should we eradicate an entire segment of private enterprise, the bail industry, in order to guarantee the criminal free and easy bail? Why shouldn't the criminal pay his own bills?

Judges who advocate the use of 10 percent deposit bonds, place themselves in direct competition with private enterprise by using taxpayers' money for criminal bonds. Would a judge take the same risk with his money? Why do some judges want 10 percent bonds? We agree with Shawnee County District Attorney, Gene Olander when he said that he viewed percent deposit bonding as nothing more than an attempt to put the professional bail bondsman out of business. (See attached letter). Bail agents are the only independent free enterprise businesspeople in the criminal justice system. Some judges want total control. Wherever deposit

bonding takes hold, bail agents fold. At that point all bonds will be public taxpayer bonds or there will be no bonds at all. Judges will totally decide who stays in jail and who gets out, much like dictatorial countries. There are no bail agents where dictators exist, such as many South American countries and Russia, where people are incarcerated for months or years because of their political beliefs. Thank God not all judges want easy free bail. Only 3 districts in Kansas have attempted such a thing. One reason is because the legislature has not provided for it. There is no statutory authority for deposit bail. That is why, in the last legislative session, H. B. 2009 was introduced; which would have given judges authority to establish the deposit bonding ideal. That bill did not pass either house. Nevertheless deposit bail was implemented in defiance of the elected representatives of the people (This Legislature). The passage of this bill, H. B. 2961 will make it perfectly clear that even a judge can not establish laws by administrative decree, after being turned down by the legislature.

In Shawnee County alone there is an average of at least one bond forfeiture each day, as a result of taxpayer subsidized bonds.

There are those why say that because some defendants charged in Federal court, are released on their signature, that therefore the state should do likewise. That argument fails because less than one percent of all criminal cases filed, are in Federal court, and many of these are of the so-called 'white collar' nature. Further, the Federal government is better equipped to recapture defendants. Even so, many are not found.

We, of course, realize that a criminal defendant stands innocent until proven guilty. But, we must remember that over 90 percent of all people charged with crimes are found guilty. With percent deposit bonding a great many criminals will not be found guilty, because they will not return for trial.

The criminal element will view paying 10 percent of the bond as simply a small cost of doing business and never return. If he is located it will probably be in the commission of another crime. Then what will be done with him? Will he be released again on another public bond or kept in jail? This is what causes jail overcrowding. When bail is made easy, crime becomes more profitable and as a result, fuels crimes and fills jails. This has proven true whereever easy bail prevails. The bail agent with his money at risk, supervises the defendant while on bond, and returns him to court, thereby reducing crime. We cannot have a criminal justice system without the defendant in court.

Certainty of punishment can only be provided by the professional bail agent.

Many honest business people and public officials, including law enforcement personnel, must post bonds guaranteeing their performance. Honest business people must post and pay for surety bonds to guarantee payment of sales tax. Honest contractors must post surety bonds, to guarantee their work performance. Even sheriffs and other public officials must post surety bonds to guarantee their performance. Yet, several liberal judges and social workers believe that criminals should not post bonds to guarantee their performance, and that the taxpayers should post their bonds for them. Bail agents are the only people in the criminal justice system that guarantee their performance.

There are those who say that government, by charging a one percent fee for providing taxpayer bonds for criminals will pay for this criminal service. The fact is, the retention of this so-called administrative fee would not even pay for one additional clerk, let alone bookkeeping, issuing refunds to criminals, special bank accounts, unpaid bond forfeitures, increased crime, additional sheriff deputies, and, additional administrators. This liberal program would fast develope into one of the largest, most expensive, self-perpetuating bureaus in the state, costing millions.

All of this for the benefit of the criminal defendants. We wish as much attention was paid to the victims of the criminals, and the non-criminal taxpayers. Percent deposit bonding (Public Bonds) will place the non-criminal taxpayer in a position of paying for his own demise.

Percent deposit bonding was tried in California with misdemeanor cases. After spending millions of dollars for administrators and bond forfeitures with very few defendants showing up for court, the California legislature recently abolished percent deposit because it was totally unworkable and expensive. In Kansas we now see many public bonds being issued for felons. Such a practice cannot be tolerated if we are to have any semblance of justice.

Government and the taxpayers are not required to pay for you and I to operate our business and they certainly should not be required to pay for the operation of the criminals' business. Those who commit criminal acts should be made to post sufficient surety bonds as required by the Kansas Constitution, Bill of Rights, §9 (See attached copy of that provision). Our goal should be to provide a strong criminal justice system not a criminal welfare system.

The Professional Bail Agents of Kansas stand with the victims, non-criminal taxpayers, law enforcement and free enterprise. We ask you to do the same and vote yes on H. B. 2961.

Respectfully submitted,

Lowell R. Abeldt

ASSISTANT DISTRICT ATTORNEYS
Jean M. Hamilton
Randy M. Hendershot
James J. Welsh
C. William Swanson
David Debenham
Suzanne Carpenter
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CHILD SUPPORT DIVISION
296-4333
Suzanne Nelson

February 12, 1985

Mr. William Roy, Jr., Representative
State Capitol Building
Topeka, Kansas 66612

RE: HOUSE BILL 2009

Dear Representative Roy:

It was called to my attention that House Bill 2009 passed the House Judiciary Committee by one vote. Please be advised that our State Prosecutors Association as well as myself are opposed to the passage of this measure.

Not only would this bill put the Clerk's Office in the bonding business, it would also, in my opinion, change the criminal bail bond system in a manner which would have an adverse effect on the whole criminal justice system.

We presently have sufficient statutory authority for either granting a surety bond or allowing those financially unable, but a reasonable risk to post their own recognizance. My feeling is that if we are going to require a bond in a certain amount to guarantee that person's appearance and then to say that they would only be responsible for up to 25% of that bond, that it would make no sense whatsoever.

I am aware that there are those who wish to eliminate professional bail bondsmen. Whether or not you like professional bail bondsmen, they perform a vital service in the implementation of article 9 of the Kansas Bill of Rights under our present system. When a $10,000 bail bond is posted, the bondsman has an incentive to see to it that that person is in Court and if the defendant fails to appear, the bondsman stands to lose the entire $10,000. There is, therefore, a great incentive to see to it that not only the defendant appear, but that he is apprehended and surrendered by the bondsman so that the bondsman does not have to pay the forfeited bond. This proposed new system does not do anything that the present recognizance system doesn't because once the bond is forfeited, the deposit may be forfeited, but no one is looking for the defendant to surrender him to avoid paying the full bond.

Granted, there is a need for a system where we take limited risks on misdemeanor and non-violent offenders. We already have that system under the present law. I view this bill as nothing more than an attempt to put the professional bail bondsman out of business, as we already have sufficient statutes on the books to take into account those defendants who would otherwise be detained solely because of their financial circumstances.

My personal observation has been that bonds which are posted on a defendant's own recognizance are forfeited at least 10 times more frequently than those who have a responsible surety on their bond. I do not see this bill as anything other than an unnecessary expansion of the presently very liberal recognizance program already in place. I have kept records in this office for several years as to forfeited bonds and believe me, when a professional bail bondsman has a forfeiture, usually within 30 to 45 days, he has either surrendered the defendant or has paid the forfeiture in full. I find this a much more effective system than that proposed under HB 2009.

Thanking you in advance for your time and attention.

Yours very truly,

GENE M. OLANDER
District Attorney

GMO: bjw

THANK YOU FOR THE PRIVILEDGE OF APPEARING BEFORE YOUR COMMITTEE TO SPEAK IN OPPOSITION OF THE BILL YOU ARE CONSIDERING.

THE COURT BONDING SYSTEM HAS BEEN IN EFFECT IN THE 20TH JUDICIAL DISTRICT, WHICH IS COMPRISED OF BARTON, RUSSELL, RICE, ELLSWORTH AND STAFFORD COUNTIES, FOR A PERIOD OF APPROXIMATELY 8 YEARS. IT HAS SERVED US WELL. THE ONLY PEOPLE THAT DON'T LIKE IT ARE THE BONDSMEN THAT USED TO HANG AROUND THE JAIL AND TRY TO DRUM UP BUSINESS BY TAKING 10% OF THE FACE AMOUNT OF THE BOND AS A PREMIUM FOR WHICH THE ACCUSED GETS NOTHING IN RETURN OTHER THAN HIS RELEASE.

UNDER THE COURT BONDING SYSTEM, THE ACCUSED PAYS 10% OF THE FACE AMOUNT, HOWEVER, WHEN HE HAS COMPLIED WITH THE CONDITIONS OF THE BOND, OR HIS CASE IS COMPLETED HE HAS 90% OF HIS PREMIUM RETURNED TO HIM. FOR THE RETURNED PREMIUM, THE ACCUSED WILL PAY THE COURT COSTS, WHICH OTHERWISE WOULD PROBABLY NOT GET PAID, HE MIGHT BE REQUIRED TO PAY RESTITUTION TO THE VICTIM OUT OF HIS RETURNED PREMIUM OR HE MIGHT BE REQUIRED TO REIMBURSE THE INDIGENT DEFENSE FUND FOR ATTORNEY FEES WHICH HAVE BEEN INCURRED BY THE STATE.

AS IS READILY APPARENT, THE ACCUSED BENEFITS, THE PUBLIC BENEFITS IN RESTITUTION PAID, THE TAXPAYER BENEFITS BY GETTING REIMBURSED COURT COSTS AND ATTORNEY FEES : THE ONLY LOSER IS THE BONDSMAN.

THE CONCEPT OF A COURT BONDING SYSTEM IS NOT NEW-IT IS NOT SOMETHING THAT JUST HAPPENED. THE AMERICAN BAR ASSOCIATION

ATTACHMENT B
H. FJSA
3/19/86

IN ITS"MINIMUM STANDARDS FOR CRIMINAL JUSTICE", AS RELATED TO "PRETRIAL RELEASE", 1968, SEC. 5.3 (c)(ii), STATES:

" UPON FINDING THAT MONEY BAIL SHOULD BE SET, THE JUDICIAL OFFICER SHOULD REQUIRE . . .THE EXECUTION OF AN UNSECURED BOND IN AN AMOUNT SPECIFIED BY THE JUDICIAL OFFICER, ACCOMPANIED BY THE DEPOSIT OF CASH OR SECURITIES EQUAL TO 10% OF THE FACE AMOUNT OF THE BOND. THE DEPOSIT, LESS A REASONABLE ADMINISTRATIVE FEE, SHOULD BE RETURNED AT THE CONCLUSION OF THE PROCEEDINGS, PROVIDED THE DEFENDANT HAS NOT DEFAULTED IN THE PERFORMANCE OF THE CONDITIONS OF THE BOND.

IN THE COMMENTARY OF THE SECTION IS CITED:

" THE PREMISE IS THAT INSTEAD OF PAYING A BOND PREMIUM WHICH IS NEVER RECOVERED, THE DEFENDANT SHOULD BE ALLOWED TO DEPOSIT ROUGHLY ITS EQUIVALENT (10% OF THE AMOUNT OF BAIL) WITH THE COURT AT THE TIME HE EXECUTES A PERSONAL BAIL BOND. UPON COMPLIANCE WITH THE CONDITIONS OF THE BOND, 90% OF THE DEPOSIT IS RETURNED. THE SYSTEM WORKS WELL AND , CONTRARY TO SOME PREDICTIONS, THE RATE OF FORFEITURE UNDER THE STATUTE IS SMALLER THAN WHERE SURETY BONDS WERE REQUIRED. (BOWMAN, THE ILLINOIS TEN PERCENT BAIL DEPOSIT PROVISION, 1965 U.ILL. L.F. 35, 39.)

SECTION 5.4 STATES:

" NO PERSON SHOULD BE ALLOWED TO ACT AS A SURETY FOR COMPENSATION. IN ANY ACTION TO ENFORCE AN INDEMNITY AGREEMENT BETWEEN A PRINCIPAL AND A SURETY ON BAIL BOND IT SHOULD BE A COMPLETE DEFENSE THAT THE SURETY ACTED FOR COMPENSATION. . ."

THE COURT BONDING SYSTEM HAS WORKED WELL, IS STILL WORKING WELL, AND WILL CONTINUE TO WORK WELL. IT SERVES THE OVERALL CRIMINAL JUSTICE SYSTEM BY ASSURING THE PRESENCE OF THE ACCUSED; IT SERVES THE TAXPAYER IN THE RESPECT THAT COSTS ARE PAID FROM THE REFUND THAT WOULD OTHERWISE NOT BE PAID, OR WOULD BE DIFFICULT TO COLLECT. THE VICTIM IS SERVED BY RECEIVING RESTITUTION FROM THE REFUND OF THE PREMIUM. THE COUNTY GENERAL FUND IS SERVED BY RECEIVING ANY EXCESS MONIES NOT NEEDED IN THE BOND ACCOUNT.

I URGE YOU TO DEFEAT THIS PROPOSAL- ALLOW US TO CONTINUE TO USE A BONDING SYSTEM THAT HAS BEEN PROVEN TO WORK FOR ALL OF THE CRIMINAL JUSTICE SYSTEM. THERE ARE NO LOSERS EXCEPT THE BAIL BONDSMEN , WHO HAVE CONTINUALLY EXHIBITED GREED IN THEIR ABILITY TO TAKE ADVANTAGE OF THE PLIGHT OF AN ACCUSED PERSON THAT IS CONSIDERED TO BE INNOCENT UNTIL PROVEN GUILTY BEYOND A REASONABLE DOUBT.

THANK YOU- IF THERE ARE AND QUESTIONS, I WOULD BE GLAD TO ANSWER THEM.

PERSONAL RECOGNIZANCE CASH BONDS

1. On April 18, 1985, the Judges of the District Court decided that a committee of Judges should be appointed to study personal recognizance cash deposit bonds. The committee was appointed and undertook the study. The views and recommendations of Gene Olander, District Attorney, were solicited and received by the committee. Mr. Olander reviewed the final recommendations of the committee and stated that he had no objection to the committee's recommendation to try personal recognizance cash deposit bonds limited to C, D and E felonies and misdemeanors. The program would be tried for six months with careful monitoring and a full review at the end of such period.

2. At a Judges' meeting on September 13, 1985, the committee recommended a trial of such program and the majority of Judges voted in favor of the committee's recommendation for a six month trial period with respect to personal recognizance cash bonds.

3. Thereafter an official District Court Rule was issued. The provisions of the rule were reviewed by the District Attorney who had no objection. The program was instituted on October 8, 1985. A personal recognizance bond is one in which the defendant signs as principal conditioned upon defendant's appearance in court as ordered. There is no surety. A cash deposit in the amount of 10% is paid into the Clerk's office. If the defendant makes all court appearances he receives a refund of 90%, and 10% is retained as an administrative fee and paid over to the County annually. The program is limited to C, D and E felonies and misdemeanors. Persons charged with A and B felonies are not eligible. The U.S. District Court has a rule which permits the posting of such bonds and the Shawnee County District Court Rule is patterned after American Bar Association proposals.

4. In order to qualify for personal recognizance cash deposit bond a defendant must be screened by Court Service officers during business hours and meet the following criteria: (1) Kansas resident; (2) stable address; (3) no prior bond forfeitures; (4) no warrants or holds from other jurisdictions; (5) must not have been extradited or waived extradition; (6) must not have had a prior A, B or C felony conviction and defendants must also satisfy one additional requirement which would increase the likelihood of court appearance such as being a resident of Shawnee County for more than six months, having a relative living in Shawnee County, having employment or being a student in Kansas or owning a business or property interest in Kansas. In addition, persons admitted to bail on personal recognizance cash deposit bonds are required to report to Court Service officers as directed. This requires a continuing check on the whereabouts of such individuals.

5. During ~~a~~ the period October 8, 1985 to March 14, 1985 there were a total of 971 bonds written in criminal cases in Shawnee County District Court. Of this total, approximately 6% or 62 bonds were personal recognizance cash deposit bonds. There were also 238 professional surety bonds which was approximately 25% of the total bonds written. The remaining bonds were straight personal recognizance bonds, bonds with surety, and straight cash bonds.

6. As of March 13, 1986, the amount due Shawnee County under the personal recognizance cash deposit bond program was $1,402.50.

H. F&SA
3/17/86 ATTACHMENT C

7. Of the 62 personal recognizance cash deposit bonds written there has been only one bond forfeiture by an individual charged with misdemeanor theft. Of the 62 individuals posting personal recognizance cash deposit bonds there have been no ~~separate~~ subsequent, independent criminal charges filed against any of these individuals other than a failure to appear with respect to the one person who forfeited a personal recognizance cash deposit bond.

8. The Shawnee County District Court program is not designed to replace professional bail bondsmen as demonstrated by our experience which shows that only 6% of the total bonds written were personal recognizance cash deposit bonds as opposed to approximately 25% of the bonds written by professional bail bondsman.

9. Shawnee County District Court pilot program is quite limited in scope. It is limited to nonviolent felonies and persons who have substantial ties to the community. It is only one bail alternative or option. It is not intended to replace the other statutory alternatives.

10. Possible benefits of the program are allowing funds of defendant to be available for the following purposes: (1) Payment or partial payment of his own counsel (as opposed to payment by state or county); (2) paying restitution to crime victims; (3) payment of court costs; (4) payment of probation fees.

THIRD JUDICIAL DISTRICT COURT OF KANSAS

Administrative Order No. 114
(OR and OR - Cash Deposit Bonds)

This Administrative Order together with Administrative Order No. 113 controls all procedures, qualifications and requirements for personal recognizance (OR) bonds and personal recognizance - cash deposit (OR - cash deposit) bonds and it supercedes the Automatic Bond Schedule.

1. Court Service Officers and Shawnee County Department of Corrections Officers (sworn in as Deputy Clerks of District Court) are authorized to admit to bail persons in custody by virtue of arrest reports or criminal, DUI or traffic cases in accordance with the provisions of this order.

2. A person in custody on misdemeanors, DUI and traffic offenses shall be screened by CSO's or Corrections Officers and may be admitted to bail on OR bonds (in the absence of instructions to the contrary from a judge) if he/she meets the following criteria which increase the liklihood of a court appearance:

a. Is a Kansas resident.

b. Has stable address.

c. Has no prior bond forfeitures.

d. Has not been extradited or waived extradition on pending charges.

e. Has no other detainer orders from other state or federal jurisdictions.

3. A person in custody on Class C, D and E felonies may be

admitted to bail on OR - cash deposit bonds (unless otherwise ordered by a judge) if upon screening by CSO's or Corrections Officers he/she satisfy all the criteria of Paragraph No. 2, supra, and requirement a. plus one additional requirement below (and are eligible under Administrative Order No. 113):

a. No prior A, B or C felony convictions.

b. Has resided in Shawnee County for a period in excess of six months.

c. Has relative or family member living in Shawnee County.

d. Is presently employed in Kansas.

e. Owns an interest in a business or real property in Kansas.

f. Is presently a student the the state of Kansas.

4. Any person eligible to be admitted to bail on an OR - cash deposit bond shall deposit with the Clerk of District Court cash equal to ten percent (10%) of the amount of the bond and execute the bail bond in the total amount of the bond. No surety shall be required. All other conditions of the bond set by the Court must be satisfied.

5. A receipt shall be issued to the person who posts the cash deposit. Such person shall be informed in writing that he or she has no right to withdraw the cash deposit and will be entitled to a refund of 90% of the deposit only when the defendant has performed all the conditions of the bond and has been discharged from his obligations to the Court. Such person shall be further informed that the cash deposit will be forfeited and remain the absolute and permanent property of the Court and/or Shawnee County should one or more of the following events occur:

a. Defendant makes a false statement or representation regarding the criteria for OR - cash deposit bond as set forth in Paragraphs 2 and 3, supra.

b. Defendant fails to appear in Court pursuant to Court order at any stage of the proceedings.

c. Defendant fails to report as directed to CSO.

d. Defendant fails to perform any other condition of bail imposed by the Court.

6. All defendants admitted to bail on OR or OR-cash deposit bonds shall be required to report as directed to a CSO.

7. Other special conditions may also be imposed by the Court as a requirement of release on OR or OR - cash deposit bonds.

8. When a defendant qualifies for an OR - cash deposit bond, ten percent (10%) of the bond in cash shall be deposited with and held by the Clerk of District Court until such time as the defendant has fully performed all conditions of the bond and is discharged from his obligation by the Court. When the defendant has been so discharged, ninety percent (90%) of the cash deposit shall be returned to the party posting the same upon filing the receipt with the clerk. Ten percent (10%) shall be retained by the Clerk as an administrative fee. Interest shall not be paid on the portion of the cash deposit which is returned. The cash deposits shall be placed in a separate interest bearing bank account by the Clerk and the aggregate of administrative fees and interest shall be turned over to the General Fund of Shawnee County annually.

9. When a defendant who has posted the cash deposit is discharged from his obligation to the Court and files his receipt with the Clerk at the conclusion of the proceedings, said defendant may voluntarily assign the refundable portion of the cash deposit to his attorney as payment of attorney fees.

10. This order shall not affect the right of any person to seek or obtain pretrial release under other statutory methods of admitting defendants to bail, and the participation of a defendant in this program shall be on a voluntary basis.

11. This order shall not apply to civil bench warrants.

12. Definitions:

a. The term "cash" as used herein means United States currency, a money order, or a bank draft or certified check drawn on a Kansas banking institution or savings and loan.

b. The term "Court" as used herein means the Shawnee County District Court.

c. The term "defendant" as used herein means the person in custody by reason of arrest report and/or a defendant in a criminal, DUI or traffic case.

BY ORDER OF THE ADMINISTRATIVE JUDGE, THIRD JUDICIAL DISTRICT, this 7th day of October, 1985.

William R. Carpenter
Administrative Judge

THIRD JUDICIAL DISTRICT OF KANSAS

Administrative Order No. 113

(Bail Bond Schedule)

The following bail bond schedule shall be used by Court Services officers and Shawnee County Department of Corrections officers (sworn in as Deputy Clerks of District Court) in conjunction with the requirements of Administrative Order No. 114 for the purpose of admitting prisoners to bail unless special instructions are given by a judge. Such special instructions are controlling over this schedule. A separate bond shall be written for each case or arrest report. This schedule and Administrative Order No. 114 supercedes the Automatic Bonding Schedule.

This schedule is to be applied in routine cases. In the event of exceptional circumstances which the arresting officer, Department of Corrections, or District Attorney believe warrant higher or lower bond amounts, call the duty judge.

	Bond	OR - Cash Deposit
A Felonies	First Appearance Required	Not applicable
B Felonies	First Appearance Required	Not applicable
C Felonies	$10,000.00	$1,000.00

The following Class C felonies are not bondable from this schedule; first appearance is required:

1. Sale or possession with intent to sell drugs under K.S.A. 65-4127 A and B;
2. Aggravated battery (K.S.A. 21-3414);
3. Aggravated assault on a law enforcement officer (K.S.A. 21-3411);
4. Aggravated burglary (K.S.A. 21-3716);
5. Voluntary manslaughter (K.S.A. 21-3402);
6. Arson (K.S.A. 21-3518).

	Bond	OR - Cash Deposit
D Felonies (except as set forth below)	$1,500	$150
E Felonies (except as set forth below)	$1,000	$100

The following Class D and E felonies shall be bonded as follows:

1. Aggravated assault (K.S.A. 21-3410)	$5,000	$500
2. Burglary (K.S.A. 21-3716)	$5,000	$500
3. Aggravated escape from custody (K.S.A. 21-3810)	First appearance required	
4. Aggravated vehicular homicide (K.S.A. 21-3405(a)	First appearance required	
5. Aggravated juvenile delinquency (K.S.A. 21-3511)	First appearance required	
6. Aggravated failure to appear (K.S.A. 21-3814)	$5,000	$500

A & B Misdemeanors*	$1,000	$100
C Misdemeanors*	$500	$50
DUI*	$1,000	$100
Traffic*	$200	
Fish and Game*	$500	$50
Probation violation (Felony)	$5,000	$500
Probation violation (Misdemeanor)	$1,000	$100
Failure to appear (B Misdemeanor)	$1,500	$150

The amount and conditions of bond endorsed on the warrant by the judge is controlling if in conflict with this schedule.

If a person is in custody on several criminal charges, the highest charge shall govern for purposes of setting bond under this schedule. More than one OR - cash deposit bond may be posted by a person in custody.

*Kansas residents are approved for O.R. release on these offenses if they satisfy the requirements of Administrative Order No. 114 unless there are exceptional circumstances or other charges or holds. If arrested on DUI defendant must be sober (4-6 hours) unless responsible person transports defendant from jail.

BY ORDER OF THE ADMINISTRATIVE JUDGE, THIRD JUDICIAL DISTRICT, this 7th day of October, 1985.

William R. Carpenter
Administrative Judge

Hearing on HCR 5043, March 17, 1986
House Federal and State Affairs Committee

Richard Taylor
KANSANS FOR LIFE AT ITS BEST!

It came as a surprise to read in the February 22 Topeka paper of this proposed constitutional amendment. I am not a proponent or opponent at this time, because it is not clear what changes this would make. So come, let us reason together, said a wise man of old. (1)

My statement today is for education, not lobbying. Nine months of the year I spend on education and enjoy speaking to church and youth groups morning and evening, to civic clubs, and to students in grade school, junior high and high school, and in universities.

The three months spent on lobbying I do not enjoy. If other lobbyists are successful their clients reap financial rewards. None who support this effort reap financial rewards if we are successful. Your vote on our issues means fewer people are hurt or more lives are destroyed. That is a heavy burden.

Not being a teacher, I'll make my best educational effort. Why does our Constitution require proposed amendments first be approved by the legislature and later approved by the electors? The Kansas Supreme Court has spoken on this issue. Volume 207, pages 651-2 of Kansas Reports, states that "wise men" who were the "framers" of our Constitution were convinced that "liberty and freedom meant, not the giving of rein to passion or to thoughtless impulse, but the considered exercise of power by the people for the general good." Hence, the framers of our Constitution did not want to make amendments easy. And "the Kansas people thus restricting themselves" did so because they also wanted to avoid "the danger - to be equally shunned - of making amendments too difficult." (2)

Kansas gambling promoters who believe amendments are too difficult should remember the framers of our constitution could have required a simple majority for approval of amendments but chose a two-thirds majority and did not believe that was "too difficult." It was by choice, not accident, that our founding fathers rejected amendments by petition of the people.

(Gambling promoters who believe our Constitution makes amendments too difficult should live in Indiana where proposed amendments must be approved by two sessions of the legislature with a general election of lawmakers in between.)

Did our founding fathers err in their concern that "freedom meant, not giving rein to passion or to thoughtless impulse"? During the 1981 session, Chairman Reilly tried to have his committee introduce public liquor by the drink. After some silence, Senator Morris moved to introduce the measure. This was followed by more silence. Finally Chairman Reilly had to second the motion. He then called for a voice vote and announced the ayes appear to have it. When met by objection, a show of hands revealed only he and Senator Morris supported the measure. (3)

Public liquor by the drink could not even get introduced in 1981 and was approved in 1985. Why the difference? John McCormally served in the legislature and campaigned for more liberal drinking laws as a progressive and flaming liberal. He now looks back and realizes he was used by liquor special interests out to make a bigger buck. In 1981 liquor sellers and the Governor had not stirred up the public to passion and thoughtless impulse. In 1985 the public was used by special interests out to make a bigger buck. Will HCR 5043 encourage more or less passion and thoughtless impulse? (4)

ATTACHMENT D
H. FJSA
3/17/86

Is passion and thoughtless impulse behind lottery today? The framers of our Constitution expected lawmakers to follow the advice of Edmund Burke, "Your representative owes you, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion."

But the Speaker of the House, the Governor, and Chambers of Commerce are demanding you not use wise judgment. Rather you should just vote YES on lottery. By forcing reconsideration of an issue that was killed in fair debate and after an hour of arm twisting, lottery promoters believe you do not have the right to vote NO. Would HCR 5043 help those who believe lawmakers should not consider the merits of an issue?

Retired Washburn Law Professor Slover asked a Senate Committee, "What is the more weightier matter--a statute enacted by a bill or an amendment of the state constitution? If you enact legislation which you later determine not to be in the best interests of Kansas you can always correct your mistake in the next session of the legislature. If you resolve to amend the constitution and the voters approve, it is not an easy matter to return to the law as it was before the amendment was made. Since this is such a weighty matter surely you should give it no less attention than you would a bill. That includes not only holding hearings and taking testimony in committee but voting your conscience and best judgment on whether the amendment would be good for Kansas."

So much for Article 14 as now written. What changes would SCR 5043 make? Would voting to submit a constitutional amendment require only that lawmakers believe the amendment is in proper form? Using that criteria should SCR 5018 of last session have been approved by all House members, because it was in proper form? (5)

In loyalty to Article 14 of our Constitution, many house members voted NO on HCR 5018 because they did not approve of what the amendment did. Would SCR 5043 have required those house members to vote YES?

Some may say they would have voted YES on SCR 5018 if their vote was needed to pass the amendment. That means they wanted their people back home to believe they opposed the proposed change. If right to vote is the issue, why would the people back home want a lawmaker to vote NO on property tax classification?

What change would HCR 5043 make? Would it require that lawmakers vote to submit the first 5 amendments that come across their desks in proper form and then vote NO on others?

Would HCR 5043 reduce lawmakers to a brainless rubber stamp that says SUBMIT? Would lawmakers be totally relieved of responsibility for how they vote? Would it require them to vote in an irresponsible manner?

Chambers of Commerce are flooding your desks with petitions to allow the people to vote on lottery but they do not want you to allow the people to vote in voter referendums. Under HCR 5043 would you be required to support voter referendums?

With amendments by initiative, persons who want the change sign petitions calling for a proposed constitutional amendment. Under our present system, lawmakers who want the change vote to approve the proposed constitutional amendment. Under HCR 5043, would lawmakers be required to vote to submit if the amendment was in proper form and requested by one person? If not, why? What reasons could be given for voting NO?

Gambling promoters can not win legislative approval on the merits of their issue, so they calim lawmakers are simply voting to allow the people to vote. If that is the case, why are proposed constitutional amendments debated? Would HCR 5043 put constitutional resolutions on the Consent Calendar?

Speaking to the Downtown Rotary Club in Topeka on October 2, 1980, Governor Carlin told of his desire to protect the reappraisal of urban and rural real estate by passing a constitutional amendment. He did not say the people have the right to vote on his classification amendment. He said, "It requires a two-thirds vote of the Legislature to win approval of something that is truly good for Kansas."

Speaking at an Eggs & Issue Breakfast on February 4, 1969, concerning another constitutional amendment, Senator Bennett who later became Governor said, "We do not vote to submit that which we do not want passed."

Is voting to submit just another way of saying I want the people to pass this constitutional change? I look forward to your discussion.

The Kansas Constitution was adopted in 1859, and is the supreme and paramount law, receiving its force from the express will of the people. It established three separate departments of government and placed upon each of them limitations which experience has shown to be essential to a progressive government. It has worked well in practice, and is a monument of the wisdom and patriotism of its framers. But no product of the human mind is perfect, so the framers prescribed the manner by which the Constitution could be amended or revised, which is clearly defined. Those wise men saw that, in a state where the people were admitted to a direct participation in the government, party passions and interests might likely lead to too much tampering with the Constitution, if effectual checks were not imposed, and, what may be thought otherwise, restriction with respect to amendment and revision was the policy of the constitutions of the states that were selected as models from which to fashion the new Kansas Constitution. (Proceedings and Debates, Wyandotte Constitutional Convention, 1859.)

In any event, it was settled that the only manner in which the Constitutition could be amended or revised, was in accordance with Article 14 which prescribed two methods by which changes may be effected. One, called the legislative method, by which the people adopt propositions for specific amendments that have previously been submitted by two-thirds of the members of each house of the Legislature (Sec. 1), and the other, called the convention method, by which delegates are chosen by the people for the express purpose to "revise, amend or change" one or more articles, or the entire instrument itself (Sec. 2)—followed by a ratification by the people. See, *Staples v. Gilmer*, 183 Va. 613, 33 S. E. 2d 49, 158 A. L. R. 495. The idea of the Kansas people thus restricting themselves was a part of the American system of written constitutions, and was convincing evidence that amongst them liberty and freedom meant, not the giving of rein to passion or to thoughtless impulse, but the considered exercise of power by the people for the general good, and, therefore, always under the restraint of law. Hence, the framers of our Constitution avoided the dangers attending a too frequent change in our fundametntal law, and likewise obviated the danger —to be equally shunned—of making amendments too difficult. No government can expect to be permanent unless it guarantees progress as well as order; nor can it continue to secure order unless it promotes progress. Thus, the Kansas Constitution reconciled the requisites for progress with the requisites for safety and order.

Topeka Capital-Journal, Saturday, February 22, 1986 25

Proposal would amend lawmakers' vote procedure

A measure introduced Friday in the Kansas House would change what lawmakers must consider when they vote on proposed amendments to the Kansas Constitution.

Rep. Robert H. Miller, chairman of the House Federal and State Affairs Committee, said he thinks the legislation will receive serious consideration by the Kansas Legislature this session because of the number of constitutional questions lawmakers have been asked to approve.

The measure, itself a proposed amendment to the constitution, would change the current requirement that legislators vote to "approve" the content of proposed constitutional amendments. Instead, the measure would allow lawmakers to "vote to submit" the proposals to voters.

"A majority of the public thinks we ought to just let them vote on things," said Miller, chairman of the panel that considers most proposed constitutional amendments. "But that isn't what the constitution says.

"It now says very clearly that we must approve something before it goes to the people."

Miller noted that scores of legislators have based their votes for the proposed lottery and pari-mutuel amendments on whether they believe people should be allowed to vote on the issues.

"A number of legislators have said we just want the people to have a right to vote on these things," Miller said. "But that's in violation of the constitution."

Miller added that the Rev. Richard Taylor, director of the anti-gambling Kansans For Life at Its Best!, is correct in his often-used argument that lawmakers must themselves approve of a proposed amendment before sending it to voters for consideration.

The current constitutional language on amendments also may be one reason the Legislature historically has allowed so few controversial amendments to the constitution to go to the voters, Miller said.

Pratt Tribune
May 1, 1981

'Little old resolution' didn't work

TOPEKA, Kan. (AP) — Sen. Edward F. Reilly Jr., R-Leavenworth, didn't fare well Thursday trying to get a committee he heads as chairman to help him with a little old resolution he insisted he just wanted to introduce this year and carry over to 1982.

He passed out copies of the resolution, stressed that he didn't expect it to go anywhere as the 1981 session winds down, and solicited support for it.

Sen. Bill Morris, R-Wichita, finally made a motion to introduce it, but that was followed by silence from other members of his Federal and State Affairs Committee.

Somewhat sheepishly, since committee chairmen rarely make such motions, Reilly eventually seconded it himself.

When he called for a voice vote on whether to introduce the resolution, he said, "The ayes appear to have it."

When that was met by objection, he asked for a show of hands. Only he and Morris raised their hands. When he asked for the no votes, about a half-dozen other committee members raised their hands.

The resolution, a perennial late-bloomer in just about every legislative session, would have called for a vote at the November 1982 general election by the people of Kansas to legalize liquor by the drink in this traditionally dry state.

Kansas didn't repeal prohibition until 1949 and at first legalized only package liquor stores. It didn't legalize private drinking clubs until 1965.

Reilly tried to slip the resolution through on a day when the Rev. Richard E. Taylor Jr., president of Kansans for Life at Its Best, the state's anti-liquor organization, was not around. Taylor usually birddogs Reilly's committee.

A few years ago a bill slipped through legalizing reciprocal agreements among the private clubs while Taylor was in Lincoln, Neb., for a speech.

"You can't blame me for trying," Reilly told his committee.

(3)

Nays: Adam, Baker, Bideau, Blumenthal, Brown, Cloud, Douville, Duncan, Erne, Foster, Fox, Fuller, Guldner, Holmes, Hoy, Jenkins, King, Kline, Long, Louis, Mayfield, Miller, D., Miller, R.D., Mollenkamp, Moomaw, Neufeld, Nichols, Patrick, Rosenau, Shore, Sifers, Snowbarger, Spaniol, Sutter, Turnquist, Vancrum, Weaver.

Present but not voting: None.

Absent or not voting: Williams.

A two-thirds majority of the members elected to the House having voted in the affirmative, the resolution was adopted, as amended.

HJ 678

EXPLANATIONS OF VOTE

MR. SPEAKER: I am *not* planning any surprise party for my *constituants* by raising taxes without them knowing about it first. Therefore on **HCR 5018** I *vote NO!*—FRED W. ROSENAU

MR. SPEAKER: I regret a NO vote on **HCR 5018**. I support the classification concept and regret that this amendment would result in substantially increased taxes on both agricultural as well as commercial/industrial real estate. Although **HCR 5018** appears to reduce residential levies, the history of tax levies in my growing district is clear: the best chance of holding down residential taxes is a broader tax base. **HCR 5018** would eliminate growth opportunities for industrial and commercial ventures in West Olathe, Spring Hill and Blue Valley. I cannot support this amendment which negatively impacts upon my district.—NANCY BROWN

Nays: Adam, Baker, Bideau, Blumenthal, Brown, Cloud, Dillon, Douville, Duncan, Foster, Fox, Holmes, Hoy, Jenkins, Johnson, Justice, Kline, Lacey, Long, Louis, Mayfield, Miller, D., Mollenkamp, Moomaw, Neufeld, Ott, B., Patrick, Peterson, Ramirez, Reardon, Rosenau, Shore, Sifers, Snowbarger, Sutter, Turnquist, Vancrum, Weaver, Wisdom.

Present but not voting: None.

Absent or not voting: None.

HJ 1073

EXPLANATION OF VOTE

MR. SPEAKER: I vote NO on **HCR 5018**.

The tax load is narrowed to only three classes of property. The number of property owners are becoming fewer and fewer. Cost of operating schools, maintaining county and township roads, operating county hospitals, ambulance services, etc., are rising rapidly. We are assured revenue sharing money enjoyed and needed to operate several of these services will be discontinued. These costs should be spread to include more people instead of less. **HCR 5018** does not answer the tax problem in Kansas; it only adds to it.—GAYLE MOLLENKAMP

(5)

John McCormally, Chapman native, lawmaker, Catholic, was with the Hutchinson News from 1950-65
[illegible] now Roving Editor for Harris newspapers - Chanute Tribune, Hays Daily News, Hutchinso[illegible]s,
O[illegible] Daily News, Ottawa Herald, Parsons Sun, Salina Journal, and Garden City Telegram.

Other states should envy Kansas' image

Harris News Service

That vicious, violent and fatal riot with which Detroit Tiger fans celebrated winning the World Series is about what you'd expect from the crazed mobs of the depraved cities, we country folks can smugly say.

Imagine our shock then to read in the national press of a similar riot when Kansas State University won a football game. Yes, that's right, Kansas State. "Drunken Kansas State fans attack police; 25 arrested," proclaims the 2-column headline in the metropolitan paper I read. (October 1984)

"WE HAD SEVERAL thousand drunk people on our hands, and they started attacking officers," a policeman said. Most were identified as students. "They got to drinking ... I can tell you it definitely was frightening," said another officer, as one policeman was stabbed.

All this had to do with defeating intrastate rival University of Kansas, for which the winner was awarded the Governor's Cup.

Who could resist observing that the Governor's Cup runneth over?

The story has a timely irony because the governor had just recently urged the loosening of Kansas drinking laws by coming out in favor of liquor by the drink — a historic subject for political controversy in the state.

NOW, THIS incident cannot be employed as a direct argument against the governor because obviously the rioting students were quite able to get drunk without liquor by the drink. But it does prompt us to ask whether a governor, to be a real leader, shouldn't be trying to encourage his people to drink less rather than more.

The governor of course insists he's not for more consumption, only more convenience. They always say that. In Iowa, where an effort is under way to replace state-owned liquor stores with private ones, proponents say they only want to replace socialism with free enterprise. But no one goes into private business — whether opening a liquor store in Iowa or a saloon in Kansas — except to make a profit, and that requires ever-increasing sales.

LIKE A TEEN-AGER in school, the governor is succumbing to peer pressure. You know, the other kids think you're a party-pooper if you don't drink. Its liquor laws give Kansas a bad image, the governor says. "If the state wants to grow and change its image," it should adopt liquor by the drink, he says. Failure to do so "puts us in a category of failing to move with the rest of the country, and that gives us an image that's not attractive." His position is endorsed by the state Chamber of Commerce and hotel-motel lobbying groups.

Actually, Kansas is not moving with the tide, but against it, in proposing to make it easier to drink more. For whatever reason — the new rage aginst drunken driving, more awareness of alcoholism, more concern about health and diets — per capita consumption of alcohol is going down. Not much, but enough to worry the liquor industry. And that suggests the new drive to liberalize Kansas' drinking laws is more than a coincidence.

Gov. John Carlin is a noted Democratic progressive and would be shocked to be branded a tool of big business profiteers. But that's what he looks like as he starts carrying water for the booze business (if I may mix my liquids.)

ACTUALLY, KANSAS has an image other states should envy: fewer alcoholics per capita, lower state and local taxes, higher worker productivity, lower auto insurance rates, fewer cirrhosis deaths.

But a leader of the by-the-drink promotion says a Japanese businessman turned negative about locating a plant in Kansas because of the restrictive drinking laws.

If that's the big bother, to hell with the Japanese. Go after the Arabs who don't drink and are richer than anybody.

Readers who know I used to drink a lot and don't anymore will say I've just become a bluenose and a killjoy, against all that good fun like the K-State students were having. But I don't care.

I just hate to see my old home state become like every place else — even Detroit.

Alcohol's lesson finally learned

By JOHN MC CORMALLY
Roving Editor
Harris News Service

Contradictions and ironies abound on the subject of drinking. Across the country pressure grows for a crackdown on drunken driving as the death toll mounts.

This time of year, when graduation brings the heaviest drinking season for students, and auto wreck tragedies fill the papers, there's always increased hand-wringing about the failure of the laws to curb excessive drinking.

But somehow little connection seems to be made in the public mind between the demand for a crackdown on one hand, and the increased promotion of drinking as socially acceptable — even required — behavior on the other.

Advertising — especially of beer and wine on television — has become more artistically persuasive. The use of athletes (albeit mostly has beens) to promote beer, and the sophisticated portrayal of wine as essential to the "good life" are clearly aimed at making early and steady customers out of young people.

A great merchandising triumph has been the introduction of low-calorie beer which allows the diet-conscious drinker to consume two bottles where he used to drink one. Of course this is a subtle sales pitch for consuming twice as much alcohol, which doubles the risk of that drunk-driving charge (to say nothing of liver damage) but, after all, business is business. The whole question of attitudes about drinking—and what to do about it is fascinating study.

I grew up in Kansas, vigorously opposed to that state's constitutional prohibition, and in a brief political career worked for its repeal.

A hindsight examination of attitudes is revealing. For one thing, in my group, we looked on prohibition as anti-Catholic, since it seemed in the state to be the handiwork of fundamentalist Protestant groups.

It was also viewed as anti-Democratic. For generations the Republican party had exploited pulpit-politics, used the "dry" issue to elect its candidates, however despicable, with the blessing of the temperance churches, giving rise to William Allen White's famous quip that Kansas regularly "staggered up to the polls to vote dry."

4

John McCormally

(June 1982)

But most persuasive, temperance, prohibition (and though not at all synonymous the terms were used interchangeably) were viewed as reactionary, ultra-conservative movements of old, kill-joy, blue-nose again-ers, and the smart, liberal, progressive, sophisticated (what later in other contexts became known as "radical-chic") thing was to be against them.

How different the view one gets from a more accurate reading of history. The real crusaders against demon rum were the "liberals" the progressives, the do-gooders, the bleeding hearts, those most concerned with the fate of the poor, the workingman, the widow and orphan, the abused, unfranchished woman. The movement grew from the same roots as the suffragist, populist, abolitionist movements. Lincoln was persuading people to sign the pledge in Springfield, two decades before he freed the slaves.

The "conservatives" in those days were on the bandwagon, too. Landowners, promoters on the frontier were advertising their areas as good for businss precisely because they were "dry".

An advertisement in an 1879 Western Kansas paper promises "In addition to good soil, water and timber, and prospective railroad privileges, we may also add that the proprietors have informed us that in no case will they allow traffic in alcoholic liquors to enter the town...this will lighten taxes at least 50 percent..."

A century later, just the opposite arguments were being used in Kansas, Iowa and other states — hotel and restaurant operators arguing that looser drinking laws would attract conventions, be good for business, fill the tax coffers.

I'm not suggesting a return to prohibition. But an accurate appreciation of the motives behind prohibition and behind its repeal can contribute to a better understanding of what we should do.

For myself, I've decided with some embarrassment that all the time I thought I was such a flaming liberal, a great progressive, campaigning for more liberal drinking laws, on the grounds that government — and certainly religions — should not tell people what they could consume — that all this time I was just another poor, dumb slob allowing himself to be used by the special interests, out to make a bigger buck.

Well, live and learn.

E

With Amendments

CONSTITUTION

of The State of Kansas

Secretary
of
State
JACK H. BRIER

H. FJSA
3/17/86

ATTACHMENT E

(*d*) Powers and authority granted cities pursuant to this section shall be liberally construed for the purpose of giving to cities the largest measure of self-government.

(*e*) This amendment shall be effective on and after July 1, 1961.

§ 6. **Definition of corporations; suits.** The term corporations, as used in this article, shall include all associations and joint stock companies having powers and privileges not possessed by individuals or partnerships; and all corporations may sue and be sued in their corporate name.

Article 13.—BANKS

§ 1. **Banking laws.** No bank shall be established otherwise than under a general banking law, nor be operated otherwise than by a duly organized corporation.

§ 2. **State not to be stockholder.** The state shall not be a stockholder in any banking institution.

Article 14.—CONSTITUTIONAL AMENDMENT AND REVISION

§ 1. **Proposals by legislature; approval by electors.** Propositions for the amendment of this constitution may be made by concurrent resolution originating in either house of the legislature, and if two-thirds of all the members elected (or appointed) and qualified of each house shall approve such resolution, the secretary of state shall cause such resolution to be published in the manner provided by law. At the next election for representatives or a special election called by concurrent resolution of the legislature for the purpose of submitting constitutional propositions, such proposition to amend the constitution shall be submitted, both by title and by the amendment as a whole, to the electors for their approval or rejection. The title by which a proposition is submitted shall be specified in the concurrent resolution making the proposition and shall be a brief nontechnical statement expressing the intent or purpose of the proposition and the effect of a vote for and a vote against the proposition. If a majority of the electors voting on any such amendment shall vote for the amendment, the same shall become a part of the constitution. When more than one amendment shall be submitted at the same election, such amendments shall be so submitted as to enable the electors to vote on each amendment separately. One amendment of the constitution may revise any entire article, except the article on general provisions, and in revising any article, the article may be renumbered and all or parts of other articles may be amended, or amended and transferred to the article being revised. Not more than five amendments shall be submitted at the same election.

§ 2. **Constitutional conventions; approval by electors.** The legislature, by the affirmative vote of two-thirds of all the members elected to each house, may submit the question "Shall there be a convention to amend or revise the constitution of the state of Kansas?" or the question "Shall there be a convention limited to revision of article(s) _____ of the constitution of the state of Kansas?", to the electors at the next election for representatives, and the concurrent resolution providing for such question shall specify in such blank appropriate words and figures to identify the article or articles to be considered by the convention. If a majority of all electors voting on the question shall vote in the affirmative, delegates to such convention shall be elected at the next election for representatives thereafter, unless the legislature shall have provided by law for the election of such delegates at a special election. The electors of each representative district as organized at the time of such election of delegates shall elect as many delegates