

Approved 2-5-90
Date

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Senator Lana Oleen at
Chairperson

1:35 ~~xxx~~ p.m. on January 30, 1990 in room 531-N of the Capitol.

All members were present except:

Committee staff present: Fred Carman - Revisor
Carol Rampey - Research

Conferees appearing before the committee: Ron Hein - Kansas Auctioneer Association
Bob Thummel - Legislative Chairman, Auctioneers
Beloit, Ks.
Gary Potter - President, Kansas Auctioneer Assn.
Bill Bredemeier - Ks. Auctioneers Assn.
Joe Rickabaugh - Ks. Livestock Association
Dean Spencer - Producer, Netawaka, Ks.
Charles Evenson - Auctioneer, Wichita, Ks.

Hearing on:

SB 241 - Licensure of Auctioneers

Ron Hein stated 14 regional meetings were held to inform auctioneers about this bill and after being informed and understanding it, it is believed that the majority of full-time auctioneers support the concept of licensure. Although the bill is not intended to regulate honest auctioneers, it is necessary to have regulation to protect the public from unscrupulous auctioneers. Licensure can also help insure the competence of the auctioneer as he/she can be regularly updated on changing laws. There is difficulty with the inconsistency of sales tax collections within the state and this needs to be addressed. Passage of this bill could also make it easier for auctioneers involved in interstate activities. Mr. Hein also presented a ballooned copy of SB 241 with suggested amendments. (Attachments 1 & 2)

Written testimony was presented from a 1989 copy of Richard Dewess. (Attachment 3); R. C. Dixon (Attachment 4); Robert A. Bloomer (Attachment 5); in support of SB 241.

Bob Thummel stated a licensure law will not solve all potential abuses occurring in the auctioneering profession but will be a benefit to the public and to the state. The bill is an attempt to reach a compromise that can be supported by most auctioneers. Mr. Thummel noted that the bill was supported unanimously by the Auctioneers Association. (Attachment 6)

Gary Potter stated that as President of the Auctioneers Association he does not believe that it is realistic to assume the fifty states will enact a uniform law, although this would be ideal. This legislation could be the first step toward that goal. The bill would not present any deterrent to auctioneers from other states conducting auctions as long as there was no wrongdoing on their record. Mr. Potter urged favorable passage of the bill. (Attachment 7)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION,

room 531-N, Statehouse, at 1:35 ~~am~~/p.m. on January 30, 1990

Bill Bredemeier stated that disparity of laws among the states causes an increase in expenses and often puts him at a competitive disadvantage. Mr. Bredemeier feels the \$50.00 fee is not a burden on out of state auctioneers and most will be able to reciprocate automatically. Everyone will be helped by regulation under this bill, from the dishonest and incompetent to those who are reputable. (Attachment 8)

Joe Rickabaugh, testifying in opposition to SB 241, stated the KLA took a formal position against this bill in December. Their association feels that the bill makes it more difficult for all auctioneers to conduct business in this state and it might affect the person holding the auction as to the selection of the best person to conduct the sale. If there are problems with the present system, a bill should be asked for by the people who hire auctioneers. Reciprocity with other states is not guaranteed with the proposed bill. Mr. Rickabaugh further stated another bureaucracy will be created and the association members are the best ones to police who auctions for them. (Attachment 9)

Dean Spencer testifying as an opponent to SB 241, stated 99% of sales at auctions are sold by auctioneers who devote 80% of their time to selling registered cattle. At present, people are able to select the auctioneer of their choice without fear of authorities enforcing some ridiculous licensing law because of local auctioneers. (Attachment 10)

Charles Evenson stated license laws enacted by 26 states have no consistency and this bill would be obstacle 27. No auction law has been recommended by the National Association of Auctioneers. He stated that estimated income to be generated from the \$50.00 fee paid by approximately 800 auctioneers in the state, would be insufficient funds to administer projections created under this bill. Mr. Evenson urged working for a universal type license acceptable to all states. (Attachment 11) (Attachment 12 - none)

Written testimony in opposition to SB 241, was distributed to Committee members from Don Good (Attachment 13), Jim Carrithers (Attachment 14), and Stanley Stout (Attachment 15).

Committee members questioned and discussed with the conferees the desires of the auctioneers, reciprocity with other states and the need to protect the people of Kansas. Elimination of city fees paid by auctioneers is a point of interest. Suggestions to prevent and deter fraud included a mandatory posting of a \$5,000 bond. Consideration should be given to multiple licensure. The auctioneers present at this meeting were commended for their high standards and lack of abuse in their chosen profession.

Meeting adjourned. The next meeting will be January 31, 1990.

GUEST LIST

COMMITTEE: SENATE GOVERNMENTAL ORGANIZATION

DATE 1-30-90

| NAME | COMPANY / ORGANIZATION | ADDRESS |
|------------------|---------------------------------|----------------------|
| Wayne E. Willett | Willett Real Estate & Auctions | El Dorado, Opposed |
| Joe N. Sundgren | Sundgren Auctioneers & Realtors | El Dorado, Opposed |
| DAN KULL | Kansas Auctioneers Assoc. | Topeka |
| Paul Geist | Kansas Auctioneers Assoc | Abilene |
| Harold R. Muder | Kansas Auctioneers Assoc | Clay Center |
| Dale C. Clark | Kansas Auctioneers Assoc | Myrtle, Ks |
| W. B. Beckmeier | Kansas Auct. Assn. | Seneca, Pa |
| Bob Hummel | Kansas Auct. Assn. | Beloit, Kan |
| Gay Potter | Kansas Auctioneers Assoc | Oakman City, Kansas |
| Ron Hein | KAA | Topeka |
| Leland Baerle | KAA | Manhattan, Ks |
| Floyd Gehring | KAA | Maundridge, Ks |
| Robert E. Shank | KAA | New Cambria, Ks. |
| Bob Wilson | KAA | Manhattan, Ks |
| W.D. Barnes | KAA | Herington, KS |
| Sharon Shouse | KAA | Wellington, Ks |
| Milton Anderson | KAA | Manhattan, Ks |
| Wayne Fogel | KAA | Holtan, Ks |
| Wayne Wischroy | KAA | Lyndon, Ks. |
| Tham Wood | KAA | Abilene, Ks |
| Ada Wood | KAA | Abilene, Ks |
| O F Sells | KAA | Clairville, Ks |
| ELBURN PARKER | KAA | MANHATTAN, Ks |
| BILL FAIR C.A.I. | BILL FAIR & CO. | LAWRENCE, Ks |
| KATHLEEN GENTLEY | KAA BILL FAIR & CO | LAWRENCE, Ks |
| Dean Spencer | Kansas Livestock Producer | Netawaka, Ks opposed |
| JOE RICKBOUGH | Ks Livestock Assoc. | Topeka, Ks. |

| | | |
|---------------------|----------------------|------------------------|
| Carl Johnson | Johnson Bros. Ancls. | Eureka Ks. Oppose ? |
| Van Damm | KAA | Manhattan Ks |
| Jerry Petry | KAA | Wamego, Ks. |
| Greg J. Thiele | KAA | Morton, Ks |
| Samuel Nelson | Kath Anderson | Topeka, Kan. |
| Chuck Faden | KAA | Topeka, Kan. |
| Earl M Brown | KAA | Junction city Kan |
| John Stantog | NAA | Eureka Ks opposed, |
| Don Drum | | Westphalia, Kansas |
| Charles S. Evansson | NAA | Wichita, Ks - opposed |
| Art Brown | KS-Lumber dealers | CCMO |
| Leon Simpson | Dr. Karon | Opposed |

| | | |
|---------------------|----------------------|------------------------|
| Calvin Johnson | Johnson Bros. Aucls. | Eureka Ks. O p 2052 |
| Van A. Lamm | K A A | Manhattan Ks |
| Jerry Peter | K A A | Wamego, Ks. |
| Lyren J. Hill | K A A | Morton, Ks |
| Thomas Nelson | Kurt Anderson | Topeka, Kan. |
| Chuck Faden | K A A | Topeka, Kans |
| Earl M. Brown | K A A | Junction city Kan |
| John Stuntz | N A A | Eureka to O P |
| Edon Drum | | Westphalia, Ks |
| Charles S. Evansson | N A A | Wichita, Ks - opp |
| Art Brown | Ks. Lumber dealers | CCMO |
| Leon Simpson | Geo Karan | Ogys |

SENATE GOVERNMENTAL ORGANIZATION COMMITTEE
TESTIMONY RE: SB 241

PRESENTED BY RONALD R. HEIN ON BEHALF OF
THE KANSAS AUCTIONEERS ASSOCIATION
January 30, 1990

Madam Chairman, members of the committee:

My name is Ron Hein, and Julie Hein and I represent the Kansas Auctioneers Association.

SB 241, as you know, provides for licensure for auctioneers. We had significant hearings last year about the provisions of the bill, as well as the arguments for it. You will recall that, with regards to the bill draft itself, Dick Dewees, who owns and operates the Missouri Auction School in Kansas City, Missouri, called this bill the best drafted auctioneers licensure bill that he had ever seen.

This bill has been endorsed unanimously by the 216 members of the Kansas Auctioneers Association at their annual meeting. After this bill was heard last year, it was passed out of this committee on a unanimous vote, but was ultimately held on the floor of the Senate when concerns were raised by some auctioneers, most of whom had not read the bill. We then met with the Leadership and asked the bill to be re-referred to committee, and promised to hold regional meetings throughout the state to advise the other auctioneers who are not members of the Association about the provisions of the bill.

During this last summer, we fulfilled our commitment, by holding 14 regional meetings attended by another 200 or so auctioneers, the vast majority of whom are not members of the Association.

After learning about the bill, and understanding how it would work, we believe the vast majority of the full-time auctioneers support the concept of licensure.

SB 241 would be beneficial for the consumers in the state in a variety of ways. So far as we can ascertain, there is no other individual who handles cash or money in the size and amount that an auctioneer does who is not regulated or licensed by the state. Auctioneers deal with hundreds of thousands, if not millions, of other people's money.

S.G.O.
Attach 1
1-30-90

This bill is not intended to regulate the honest auctioneers. However, as with most laws, it is necessary to have regulation to protect the public from those who might be unscrupulous, or who might be totally honest but who get themselves into financial difficulties, sometimes not of their making.

Currently, anybody can conduct a non-real estate sale and place the proceeds into his own personal checking account, co-mingling the funds with his own. In the event that an attachment or garnishment is made upon his bank account, it ties up the account in the courts, and potentially could result in a loss to the consumer.

Licensure will also help insure the competence of the auctioneer. This is important for two reasons: 1) to insure that the seller of the property obtains the best value possible; and 2) to insure that the seller is aware of the laws and other requirements with regards to the property being sold. These laws would include the bulk sales law, UCC provisions such as secured transactions and commercial transactions, laws relating to chattel mortgages, lien foreclosures, etc., all of which an auctioneer will be confronted with in the course of practicing their profession.

This bill is important to those auctioneers who are professionals primarily because of the adverse impact that unqualified auctioneers have upon the entire profession. One good example of this is the inconsistency of sales tax collections.

The auctioneers that I represent repeatedly get complaints when they do collect sales taxes because other auctioneers do not collect sales tax. The public erroneously concludes that the members of the Association are doing wrong by them by collecting the tax. The Department of Revenue has indicated that they do not even know who all of the auctioneers are. A licensure law would give the Department of Revenue the enforcement assistance that they need to insure that sales and all other taxes are collected as required by law.

Twenty-six states formally regulate auctioneering for the protection of the public.

Passage of this legislation would make it easier for auctioneers within the state who are involved in interstate auctioneering activities to participate in auctions in other states. Currently, numerous states allow reciprocity of license, but auctioneers from states that do not have licensure laws must take a test in those states which require licensure. This is time consuming and expensive for the auctioneers in Kansas who wish to conduct auctions in other states.

I would now like to address some of the comments made by some of the people who oppose our bill.

First of all, there is nothing self serving about this legislation. There is absolutely no intent to create a paid board or a full time executive director.

It has been said that existing laws will take care of the potential abuses to the public that would occur from an unscrupulous or incompetent auctioneer. In fact, the laws are woefully inadequate to protect the public today. There is currently no prohibition on co-mingling of the sale proceeds with the auctioneer's own personal funds. It is perfectly legal for an auctioneer who has been indicted, convicted, or suspended from practicing in another state to come into the State of Kansas and conduct auctions at will. There are no requirements with regards to time frames for paying sales proceeds to the owner of the property. If the auctioneer is incompetent, and the sale ends up bringing less revenue than should have reasonably been expected, there is absolutely no remedy, either criminal or civil to right the wrong that has been committed.

The KLA is fearful that their purebred auctioneers or even other auctioneers from out of state will be discouraged from coming into this state to conduct auctions. We do not believe this fear to be well founded. This bill permits a grandfather clause, and only requires a \$50 licensure fee for out of state auctioneers who would attempt to come into Kansas. The cost of traveling to Kansas, is far more than the \$50 per year fee.

There are undoubtedly pockets throughout the state where the auctioneers do not support this type of legislation. Much of this opposition stems from a fear of government regulation in general. Many of these auctioneers have had less than pleasant experiences with the Kansas Real Estate Commission. However, it is also true that there are other districts where auctioneers do support this legislation. The KAA believes that on the state as a whole, the majority of the full-time auctioneers support this legislation.

Thank you for permitting me to testify. I will be willing to yield to any questions at the conclusion of all of the testimony by our organization.

SENATE BILL No. 241

By Committee on Local Government

2-9

16 AN ACT enacting the auctioneers license law; providing for the
17 licensure of auctioneers; creating the board of auctioneers and
18 providing for the powers, duties and functions thereof; declaring
19 certain acts to be unlawful and providing penalties for violations;
20 amending K.S.A. 1989 Supp. 75-3170a and repealing the existing 1989
21 section.
22

23 *Be it enacted by the Legislature of the State of Kansas:*

24 New Section 1. Sections 1 to 12, inclusive, and amendments
25 thereto shall be known and may be cited as the auctioneers license
26 law.

27 New Sec. 2. As used in the auctioneers license law, unless the
28 context otherwise requires:

29 (a) "Auction" means the public sale of real property or personal
30 property, or both, in which the sale price of the property offered
31 is increased by bids until the highest accepted bidder becomes the
32 purchaser.

33 (b) "Auctioneer" means any person who offers, negotiates or at-
34 tempts to negotiate a listing contract, sale, purchase or exchange of
35 goods, chattels, merchandise, real or personal property, or of any
36 other commodity which may lawfully be kept or offered for sale by
37 or at public auction, or who sells the same at auction;

38 (c) "Board" means the board of auctioneers created under section
39 3;

40 (d) "Goods" means any chattels, goods, merchandise, real or per-
41 sonal property, or commodities of any form or type which may be
42 lawfully kept or offered for sale;

43 (e) "Person" includes an individual, association, partnership and
44 corporation.

S.G.O.
ATTACH 2
1-30-90

Attach 2
Hess

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45 New Sec. 3. (a) There is hereby created the board of auctioneers.
 46 The board shall consist of five members appointed by the governor.
 47 The members of the board immediately prior to their date of ap-
 48 pointment shall have been residents of this state for at least five
 49 years and shall be of good reputation, and at least three members
 50 of the board shall have been engaged in the vocation of auctioneering
 51 for at least five years and shall be knowledgeable in the auction
 52 profession.

53 (b) The terms of the members appointed to the board shall be
 54 for three years and until their successors are appointed and qualified
 55 except that of the members first appointed to the board one shall ~~1991~~
 56 be appointed for a term ending June 30, ~~1990~~ two shall be appointed ~~1992~~
 57 for terms ending June 30, ~~1991~~ and two shall be appointed for terms ~~1993~~
 58 ending June 30, ~~1992~~ as designated by the governor. Before the
 59 expiration of the term of a member, the governor shall appoint a
 60 successor whose term begins on July 1 following the appointment.
 61 If a vacancy on the board exists for any cause, the governor for that
 62 vacant position shall make an appointment to become immediately
 63 effective for the unexpired term. Whenever there is a member to
 64 be appointed to the board, the Kansas auctioneers association may
 65 submit to the governor a list of at least three names for each such
 66 member to be appointed, and the governor shall consider the names
 67 on such list prior to making the appointment.

68 (c) The first meeting of the board shall be at a time and place
 69 designated by the governor. The first member of the board appointed
 70 by the governor shall act as temporary chairperson of the board. At
 71 the first meeting of the board and annually thereafter, the board
 72 shall elect a chairperson and a vice-chairperson from among the
 73 members of the board. A majority of the members of the board shall
 74 constitute a quorum for the transaction of business. Meetings sub-
 75 sequent to the first meeting of the board shall be at a time and
 76 place specified by the call of the chairperson or of a majority of the
 77 members of the board.

78 (d) Members of the board attending meetings of the board, or
 79 attending a subcommittee meeting thereof authorized by the board,
 80 shall be paid compensation, subsistence allowances, mileage and
 81 other expenses as provided in K.S.A. 75-3223, and amendments

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82 thereto.

83 New Sec. 4. (a) On and after January 1, ~~1990~~ ¹⁹⁹¹ it shall be unlawful
84 for any person to act as an auctioneer or to advertise or to assume
85 to act as an auctioneer unless such person holds a valid license issued
86 by the board of auctioneers.

87 (b) A violation of this section is a class B misdemeanor.

88 New Sec. 5. (a) Auctioneer licenses shall be granted only to
89 persons who are found to be of good repute, trustworthy and com-
90 petent to transact the business of an auctioneer in such a manner
91 as to safeguard the interest of the public.

92 (b) The board is authorized to require information from every
93 applicant to determine the applicant's honesty and truthfulness.

94 (c) An examination, conducted by the board or its authorized
95 representative shall be held four times each year, and an examination
96 fee of not to exceed \$100 as established by rules and regulations of
97 the board shall be collected from each applicant for auctioneer.
98 Examination fees shall be nonrefundable and shall defray the ex-
99 penses of processing the application and of conducting the exami-
100 nation. The examination shall include questions on ethics,
101 mathematics, principles of land economics and a general knowledge
102 of the statutes of Kansas relating to the bulk sales law, ~~deeds,~~ ^{chattel} mort-
103 gages, contracts of sale, agency, leases, auctions, brokerage and the
104 provisions of this act.

105 (d) No examination shall be required for the renewal of any
106 current or future license, unless such license has been revoked,
107 suspended or is allowed to expire without renewal. In any of these
108 cases, the board may require the applicant to take and pass the
109 written examination before a new license may be issued.

110 (e) The provisions of subsection (c) requiring applicants to pass
111 a written examination to obtain a license shall not apply to an auc-
112 tioneer furnishing satisfactory proof to the board that the auctioneer
113 actively engaged in the auction business for a period of at least one
114 year prior to July 1, ~~1989~~ ¹⁹⁹⁰ ~~and that the auctioneer has been an~~

115 ~~auctioneer in at least five auctions of either real or personal property~~
116 ~~during this period of time.~~ Such an applicant shall file an application ¹⁹⁹⁰
117 and proof with the board no later than October 1, ~~1989~~ and the
118 application and proof shall be accompanied by a license fee in ac-

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119 cordance with the provisions of this act.

120 New Sec. 6. (a) In addition to the other qualifications provided
121 for by this act, every applicant for an auctioneer's license shall be
122 at least 18 years of age and shall have graduated from an accredited
123 high school or obtained the equivalent thereof. Every application
124 for a license shall be submitted on forms prepared by the board.

125 (b) Every applicant shall furnish pertinent background data as
126 outlined on the application forms furnished by the board.

127 (c) The issuance fee for each auctioneer's license shall be not
128 more than \$50 and the annual renewal fee for each license shall be
129 not more than \$50, as such fees are established by the board by
130 rules and regulations. All licenses shall expire on June 30 of each
131 year. In the absence of any reason or condition which might warrant
132 the refusal of the renewing of the license, and upon receipt of the
133 written request of the applicant and the annual fee, the board shall
134 issue a renewal license for each ensuing year.

135 (d) The board shall prepare and deliver to each licensee a license
136 certificate and pocket card. The certificate shall be displayed con-
137 spicuously at all times in the office of the licensee.

138 New Sec. 7. Any nonresident applicant who is a licensed auc-
139 tioneer in ~~and who resides in~~ another state or country where the
140 qualifications prescribed at the time of licensing were, in the opinion
141 of the board, equal to those prescribed in this state at the date of
142 application, and where reciprocal licensing privileges satisfactory to
143 the board are granted to licensees and residents of this state may
144 be granted a license without an examination. A fee of ~~not to exceed~~ equivalent to the fee prescribed in section 6(c)
145 ~~\$100 in addition to the fees set out in section 5~~ shall be collected
146 from each applicant meeting the above requirements.

147 New Sec. 8. (a) Every auctioneer licensed under this act shall
148 maintain a designated office or location where such auctioneer may
149 be reached or may be served with legal documents. The board shall
150 be notified by the licensed auctioneer of any change of such des-
151 ignated office or location within 30 days subsequent to such change.

152 (b) The board may adopt rules and regulations as necessary to
153 administer the provisions of this act.

154 New Sec. 9. The board may refuse to grant a license or may
155 suspend or revoke the license of an auctioneer for any of the following

156 causes:

157 (a) Attempting to obtain or obtaining a license through false or
158 fraudulent representation;

159 (b) making any misrepresentation;

160 (c) pursuing a continued and flagrant course of misrepresentation
161 or making false promises through agents or advertising or otherwise;

162 (d) failing to account for or to remit, within a reasonable time,
163 any money belonging to others that comes into the licensee's possession, _____ ing

164 commingling funds of others with the licensee's own or failing to
165 keep such funds of others in an escrow or trustee account;

166 (e) paying valuable consideration to any person for services per-
167 formed which were known to the licensee to be in violation of this
168 act;

169 (f) being convicted in a court of competent jurisdiction of this or
170 any other state of a criminal offense involving moral turpitude, fraud
171 or a felony;

172 (g) violation of any rule and regulation adopted by the board;

173 (h) failure to furnish voluntarily at the time of execution copies
174 of all written instruments prepared by the auctioneer;

175 (i) any conduct of an auctioneer which demonstrates bad faith,
176 dishonesty, incompetency or untruthfulness;

177 (j) any other conduct that constitutes improper, fraudulent or
178 dishonest dealings.

179 New Sec. 10. Any person making a complaint against a licensee
180 shall submit the complaint to the board in verified form. Upon
181 receipt of a properly verified complaint, the board shall send a copy
182 of the complaint to the affected licensee by certified mail, return
183 receipt requested, and the licensee shall answer the complaint in
184 writing within 20 days of receipt of the complaint. The licensee shall
185 mail a copy of the response of the licensee to the board and the
186 complainant. Upon receipt of the licensee's response or lapse of 20
187 days, the board shall make investigation of the underlying allegations
188 of the complaint, and upon a finding of probable cause to believe
189 a cause for suspension or revocation of a license under section 9 and
190 amendments thereto exists, may order a hearing for the licensee to
191 appear and show cause why the licensee should not be disciplined
192 under section 9 and amendments thereto.

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193 New Sec. 11. (a) The auctioneers license law shall not apply to:

194 (1) Sales at auction conducted by or under the direction of any
195 public authority or pursuant to any judicial order or decree.

196 (2) Sales at auction of any real or personal property conducted
197 exclusively by an individual who personally owns such real or per-
198 sonal property and who did not acquire such real or personal property
199 for resale. This subsection is applicable only to individuals. It does
200 not apply to any other "persons" as defined in section 1, nor does
201 it apply to any officer, director or employee thereof.

202 ~~(3) Any person licensed under federal law relating to packers and~~
203 ~~shippers and the auctioneering of livestock.~~

204 (4) A sale conducted by or on behalf of any political party, church
205 or charitable corporation or association if the individual conducting
206 the sale receives no compensation and does not, by advertising or
207 otherwise, hold oneself out as being available to engage in the sale
208 of goods or real estate at auction.

209 (5) Any person licensed under the real estate brokers' and sa-
210 lespersons' license act so long as such person is not conducting an
211 auction.

212 (6) Any person licensed under the vehicle dealers and manufac-
213 turers licensing act while engaged in performing the duties such
214 person is authorized to perform under the vehicle dealers and man-
215 ufacturers licensing act.

216 (7) Notwithstanding the provisions of this section, no licensee
217 under this act shall be exempted from any of the provisions of this
218 act in connection with or by reason of participation in any sale
219 excepted under this section.

220 New Sec. 12. Proceedings under the auctioneers license law shall
221 be conducted in accordance with the Kansas administrative procedure
222 act. Judicial review and civil enforcement of agency actions under
223 the auctioneers license law shall be in accordance with the act for
224 judicial review and civil enforcement of agency actions.

225 New Sec. 13. The board shall remit all moneys received by or
226 for the board from fees, charges or penalties to the state treasurer
227 at least monthly. Upon receipt of any such remittance the state
228 treasurer shall deposit the entire amount thereof in the state treasury.
229 Twenty percent of such amount shall be credited to the state general

Sales of livestock by:

(i) any person licensed as a public livestock
market pursuant to K.S.A. Section 47-101 et.
seq., and any person employed as an auctioneer
by such public livestock market; and

(ii) any person registered with the Packers
and Stockyards Administration of the United
States Department of Agriculture as a livestock
dealer pursuant to the Packers and Stockyards
Act, 1921 (7 U.S.C. §181 et. seq.) unless
such livestock dealer is selling livestock
at auction.

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230 fund and the balance shall be credited to the board of auctioneers
231 fee fund. All expenditures from the board of auctioneers fee fund
232 shall be made in accordance with appropriation acts upon warrants
233 of the director of accounts and reports issued pursuant to vouchers
234 approved by the chairperson of the board or by a person or persons
235 designated by the chairperson.

1989

236 Sec. 14. K.S.A. ~~1988~~ Supp. 75-3170a is hereby amended to read
237 as follows: 75-3170a. (a) The 20% credit to the state general fund
238 required by *section 13 and by* K.S.A. 1-204, 2-2609, 2-3008, 9-1703,
239 16-609, 16a-2-302, 17-1271, 17-2236, 17-5609, 17-5610, 17-5612, 17-
240 5701, 20-1a02, 20-1a03, 34-102b, 44-324, 44-926, 47-820, 49-420, 55-
241 131, 55-155, 55-609, 55-711, 55-901, 58-3074, 65-6b10, 65-1718, 65-
242 1817a, 65-2011, 65-2418, 65-2855, 65-2911, 65-4610, 66-1.155, 66-
243 1503, 74-715, 74-1108, 74-1405, 74-1503, 74-1609, 74-2704, 74-2902a,
244 74-3903, 74-5805, 74-7009, 74-7506, 75-1119b, 75-1308 and 75-1509
245 and K.S.A. ~~1987~~ 1988 Supp. 65-5413, 65-5513, 84-9-411 and 84-9-
246 413, and ~~acts amendatory of any of the foregoing including~~
247 ~~amendments by other sections of this act is~~ *amendments thereto,*
248 to reimburse the state general fund for accounting, auditing, budg-
249 eting, legal, payroll, personnel and purchasing services, and any and
250 all other state governmental services, which are performed on behalf
251 of the state agency involved by other state agencies which receive
252 appropriations from the state general fund to provide such services.

253 (b) Nothing in this act or in the sections amended by this act
254 or referred to in subsection (a) of this section, shall be deemed to
255 authorize remittances to be made less frequently than is authorized
256 under K.S.A. 75-4215, and amendments thereto.

257 (c) Notwithstanding any provision of any section referred to in
258 or amended by this act or referred to in subsection (a) of this section,
259 whenever in any fiscal year such 20% credit to the state general
260 fund in relation to any particular fee fund is \$200,000, in that fiscal
261 year the 20% credit no longer shall apply to moneys received from
262 sources applicable to such fee fund and for the remainder of such
263 year the full 100% so received shall be credited to such fee fund,
264 except as otherwise provided in subsection (d) of this section.

265 (d) Notwithstanding any provision of K.S.A. 2-2609 and 2-3008,
266 and amendments thereto, or any provision of any section referred

267 to in subsection (a) of this section, the 20% credit to the state general
268 fund no longer shall apply to moneys received from sources appli-
269 cable to the grain research and market development agencies funds,
270 as specified for each such fund by this subsection, and for the re-
271 mainder of a fiscal year the full 100% of the moneys so received
272 shall be credited to the appropriate fund of such funds, whenever
273 in any fiscal year:

274 (1) With respect to the Kansas wheat commission fund, such 20%
275 credit to the state general fund in relation to such fund in that fiscal
276 year is equal to that portion of \$100,000 that bears the same pro-
277 portion to \$100,000 as the amount credited to the Kansas wheat
278 commission fund during the preceding fiscal year bears to the total
279 of the amounts credited to the Kansas wheat commission fund, the
280 Kansas corn commission fund, the Kansas grain sorghum commission
281 fund and the Kansas soybean commission fund during the preceding
282 fiscal year;

283 (2) with respect to the Kansas corn commission fund, such 20%
284 credit to the state general fund in relation to such fund in that fiscal
285 year is equal to that portion of \$100,000 that bears the same pro-
286 portion to \$100,000 as the amount credited to the Kansas corn com-
287 mission fund during the preceding fiscal year bears to the total of
288 the amounts credited to the Kansas wheat commission fund, the
289 Kansas corn commission fund, the Kansas grain sorghum commission
290 fund and the Kansas soybean commission fund during the preceding
291 year;

292 (3) with respect to the Kansas grain sorghum commission fund,
293 such 20% credit to the state general fund in relation to such fund
294 in that fiscal year is equal to that portion of \$100,000 that bears the
295 same proportion to \$100,000 as the amount credited to the Kansas
296 grain sorghum commission fund during the preceding fiscal year
297 bears to the total of the amounts credited to the Kansas wheat
298 commission fund, the Kansas corn commission fund, the Kansas grain
299 sorghum commission fund and the Kansas soybean commission fund
300 during the preceding fiscal year; and

301 (4) with respect to the Kansas soybean commission fund, such
302 20% credit to the state general fund in relation to such fund in that
303 fiscal year is equal to that portion of \$100,000 that bears the same

2-8

304 proportion to \$100,000 as the amount credited to the Kansas soybean
305 commission fund during the preceding fiscal year bears to the total
306 of the amounts credited to the Kansas wheat commission fund, the
307 Kansas corn commission fund, the Kansas grain sorghum commission
308 fund and the Kansas soybean commission fund during the preceding
309 fiscal year.

310 (e) As used in this section, "grain research and market devel-
311 opment agencies" means the Kansas wheat commission, the Kansas
312 corn commission, the Kansas grain sorghum commission and the
313 Kansas soybean commission. Such agencies have been created to
314 fund appropriate research projects; to conduct campaigns of devel-
315 opment, education and publicity; and to find new markets or maintain
316 existing markets for commodities and products made from those
317 commodities, among their other duties. Such grain research and
318 market development agencies shall be funded by an assessment col-
319 lected from the grower at the time of the sale of such commodity
320 by the first purchaser. The assessment shall be sent to the proper
321 grain research and market development agency.

1989

322 Sec. 15. K.S.A. ~~1989~~ Supp. 75-3170a is hereby repealed.

323 Sec. 16. This act shall take effect and be in force from and after
324 its publication in the statute book.

325

29

TESTIMONY TO SENATE GOVERNMENTAL ORGANIZATION
ON BEHALF OF THE KANSAS AUCTIONEERS ASSOCIATION
PRESENTED BY RICHARD A. DEWEES
RE: SENATE BILL 241
FEBRUARY 27, 1989

Madame Chairman, members of the committee:

Stephen J. Martin, of Indiana University, and I are co-editors of the Auction Encyclopedia.

Over half of the states have enacted state auctioneer license laws and since 1962, I have maintained copies of all of these state laws. The first auction license was enacted in Kentucky in 1962, and the most recent one I understand was enacted in Arkansas last Friday.

Of all the state laws I've researched, if the four words "and who resides in" on line 138 of new Section 7 on page 4 were deleted, this would be the best law I have read. It would be compatible with the model law of the National Auctioneers Association and the National Auctioneers License Law Officials Association (NALLOA).

If the above four words were deleted, the bill will be fair to auction buyers, sellers and auctioneers.

NALLOA is in the process of letting a contract for a national testing firm to administer a uniform auction examination for licensure and Kansas would participate in that program/

The auction profession has enjoyed steady growth for many years. With easy access to interstate highways and competitive airfares, there is increasing mobility and specialization in the type of products sold by auction, thus making licensing desirable.

S.G.O.
ATTACH 3
1-30-90

Viking Services, Inc.

Logging and Perforating

1725 N. A St. • P.O. BOX 686 • WELLINGTON, KANSAS 67152
PHONE: (316) 326-8902

Sherri Theurer
Secretary
Kansas Auctioneers Assoc.
318 North Washington
Wellington, Kansas 67152

January 29, 1990

Mrs. Theurer,

Approximately 14 months have passed since our firm sold property in Wichita, Kansas at an auction conducted by Hunter Auctioneers of Council Bluffs, Iowa. As of this date we have not received any payment for items sold.

I was alarmed to find that anyone professing to be an auctioneer could sell property in Kansas without a license. This is true for anyone whether they be resident or non-resident.

I believe an auction license law is needed in order to prevent something like this from happening to other people. Without a license law we as consumers have little recourse in matters such as this.

Please feel free to contact me if you have any questions.

Sincerely,

R.C. Dixon

R.C. Dixon
President

SGC
ATTACH 4
1-30-90

Viking Services, Inc.

Logging and Perforating

1725 N. A St. • P.O. BOX 686 • WELLINGTON, KANSAS 67152
PHONE: (316) 326-8902

Sherri Theurer
Secretary
Kansas Auctioneer's Assoc.
318 North Washington
Wellington, Kansas 67152

February 16, 1989

Mrs. Theurer,

Approximately the middle of October 1988, I was contacted several times by a Mr. Mert Christiansen with Hunter Auctioneers, 706 1st Avenue, Council Bluffs, Iowa 51501, 1-800-999-2425, about a sale being held on November 17th in Wichita, Kansas. He wanted to know if I had any equipment I wanted to sell at that auction. My property sold at that sale was a 1965 '933' Cat Crawler Loader which sold for \$4,500 and a 1969 Miller 12 ton Tilt Top Trailer which sold for \$1,100, for a total of \$5,600. After many attempts to contact them, we still have not recieved the money due to us, and it has now been three months.

I believe there should be a better procedure for the screening and licensing process for auctioneers, both in the state of Kansas, and out-of-staters who operate in Kansas periodically. If there were, perhaps there wouldn't be anyone "taken" as I have been.

Thank you for your attention on this matter.

Sincerely,



R.C. Dixon
President

KIS

KANSAS INVESTIGATION AND SECURITY COMPANY, INC.

325 S. Broadway • Suite C • Wichita, KS 67202 • (316) 267-1356

EMERY L. GOAD, President

January 18, 1989

Lon McCurdy

RE; Sedgwick County Case 88 T 547
Berndt vs National Marketing Inc.

This is a court judgment from Dakota County, MN
against two traveling auctioneers, both named Hunter.

The judgment was for over \$20,000 in personal property
sold and never paid to the owner.

They subsequently held two auctions in Wichita in
1988, and it is believed they may have done the
same thing.

Emery

in
Process Service Wichita, Topeka, Kansas City
Northern Oklahoma, all of Kansas
Civil and Criminal Investigations

KIS

KANSAS INVESTIGATION AND SECURITY COMPANY, INC.

325 S. Broadway • Suite C • Wichita, KS 67202 • (316) 267-1356

EMERY L. GOAD, President

DATE: November 18, 1988
MEMO TO: Lonny McCurdy
McCurdy Auction Service
FROM: Emery L. Goad
RE: Hunter Auction

Recently another investigator, a friend of mine, was working a Judgement against Hunter, wherein they sold \$30,000.00 worth of clients property and kept the money and failed to disperse it. They were sued and a Judgement entered, and then on November 16, 1988, the investigator went out to execute on his fee at another auction, only to find tht Hunter had changed the name of his corporation and told the investigator he wasn't ever going to pay those people back.

Let me know if you got any ideas on these guys.

Investigations:

Civil Domestic
Criminal Custody
Credit Arson
Traffic Workman's Comp.

Employee Embezzlement

Service of Process
(Kan., Okla., Neb., Mo.)
Skip Tracing

Credit Reporting

Assets Checks
Home and Business Security
VIP Escort Service
Replevins
Repossessions

4-4

MARVIN R. APPLING
Attorney at Law
205 W. 2nd, #19
Wichita, Kansas 67202
267-0261
MRA:jsb

IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS
CIVIL DEPARTMENT

LEONA OLSEN

Plaintiff)

vs.)

LOWELL M. DALTON, d/b/a
Dalton Antiques

Defendant)

8202842

Case No.

Pursuant to Chapter 60 of K.S.A.

P E T I T I O N

COMES NOW the plaintiff, Leona Olsen, and for her cause of action against the above-named defendant, states and alleges:

1. Plaintiff is a resident of Sedgwick County, Kansas, with a correct post office address of 3231 N. Clarence, Wichita, Kansas.

2. Defendant is a resident of Sedgwick County and doing business as Dalton Antiques, 1360 S. Broadway, Wichita, Kansas.

3. Plaintiff further states that some time ago she left in the care of defendant a work of art, namely a jeweled carving entitled Fabraja Duck, valued at approximately \$20,000.00 for the purpose of selling it. Defendant informed plaintiff that it did not get sold and he would return it.

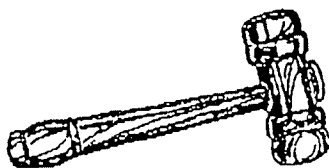
4. Plaintiff has made demand upon the defendant for the return of the jeweled carving, but the defendant still neglects or refuses to return the said property of the plaintiff.

WHEREFORE, plaintiff prays for the return of the jeweled carving entitled Fabraja Duck, or in the alternative a judgment against the defendant in the sum of \$20,000.00, with statutory interest from the judgment date, attorney's fees, costs of this action and for further relief as the Court may deem proper.

MARVIN R. APPLING
Attorney for Plaintiff

Robert A. Bloomer, C.A.I.
Box 386
Osborne, Kansas 67473
(913) 346-2856
FAX (913) 346-5554

Lowell M. Bushart, C.R.B.
500 North Kansas Avenue
Liberal, Kansas 67901
(316) 624-3814



AUCTION ONE INC.

January 29, 1990

Senator Lana Oleen
Room No. 143 N.
Kansas State Capitol
Topeka, Kansas 66612

Re: Senate Bill 241
Auctioneers License Law

Dear Senator Oleen:

I regret that I will not be in attendance at the hearing on the above captioned legislation. Due to conflicts in schedules it will be impossible for me to be in Topeka.

Please be advised that I strongly support the law as drafted. It is the most positive step for the auction industry in many years. Frankly, I find it hard to accept any negative arguments.

The auction industry in Kansas handles millions of dollars each year, dollars belonging to the general public. Yet, there are no requirements for auctioneers to have escrow or trust accounts. Therefore, auction proceeds can be deposited in the personal accounts of auctioneers. This comingling of funds puts the funds at risk through attachment or garnishment by creditors of the auctioneers. Comingling of assets has never been favored by the law.

The public is also at great risk because there are no requirements whatsoever for one to hold himself or herself out as an auctioneer. Therefore, someone not at all capable of handling an auction could be entrusted with someone's life savings.

I am not familiar with any other profession or industry that handles large amounts of money belonging to others and yet is

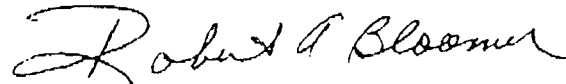


560,
ATTACH 5
1-30-90

totally unregulated. The auction industry in Kansas needs to come to grips with business practices of the 1990's. This can partially be accomplished by a license law. It would be a positive step in the right direction.

Your support of Senate Bill 241 would be appreciated.

Sincerely,



Robert A. Bloomer CAI

SENATE GOVERNMENTAL ORGANIZATION COMMITTEE
TESTIMONY RE: SB 241

PRESENTED BY BOB THUMMEL ON BEHALF OF
THE KANSAS AUCTIONEERS ASSOCIATION
January 30, 1990

Madam Chairman, members of the committee:

My name is Bob Thummel, and I am Legislative Chairman for the Kansas Auctioneers Association.

An auctioneer's licensure law was first suggested years ago in our Association, but at that time, many of our members did not support it. Many of them saw it as being too much regulation, and that there was no need for the legislation.

However, over the years, as more and more of our members have experienced situations where members of the public have been harmed by unscrupulous or incompetent auctioneers, more and more of us who practice in the profession daily have come to the realization that a licensure law is a necessary evil.

We do not pretend that a licensure law will solve all of the potential abuses that might occur, but we do believe that the benefit to the public and to the state will greatly exceed any burden placed upon any individual auctioneer.

As with any association, we had some members who did not want a grandfather clause, and others who did. Some members who wanted the fee to be some amount, and some others. This bill is an attempt to reach a compromise that can be supported by the most auctioneers, but yet still protects the public in the manner that we originally intended.

It is easy for people to come in and criticize this particular bill, and to suggest that we should do nothing.

However, the Auctioneer's Association has voted unanimously at its annual meeting to adopt this legislation, and has received overwhelming support from an additional 200 auctioneers who have attended regional meetings conducted throughout the state during the summer of 1989.

We estimate that 350-450 auctioneers support this legislation. Conservatively, we would estimate that well in excess of 75% of the volume of sales conducted annually is represented by the persons in the Association.

We strongly urge you to support SB 241.

S.G.O.-
ATTACH 6
1-30-90

SENATE GOVERNMENTAL ORGANIZATION COMMITTEE
TESTIMONY RE: SB 241

PRESENTED BY GARY POTTER ON BEHALF OF
THE KANSAS AUCTIONEERS ASSOCIATION
January 30, 1990

Madam Chairman, members of the committee:

My name is Gary Potter, and I am President of the Kansas Auctioneers Association.

I attended a meeting with you, Madam Chairman, and Sen. Gaines at which Charlie Evanson, the KLA, and members of our Association Board of Director were present. At that time, Mr. Evanson, who is a very outspoken critic of this particular piece of legislation, indicated that he could support a licensure law if all fifty states would pass a uniform licensure law (similar to a drivers license act) simultaneously.

We are in agreement with Mr. Evanson that that would be an ideal situation, and we would ultimately like to see an interstate, drivers license type law applicable in all fifty states.

However, we do not believe that it is realistic to assume that all fifty states will work a uniformed act all at the same time and inact it into law. So as a compromise to that ideal that Mr. Evanson would like to see, we are proposing that this bill go into effect as a first step. We have deliberately written into this act a provision for reciprocation with other states, that we think will serve as a basis for encouraging other states to eventually modify their existing legislation to provide for uniformity.

SB 241, will, among other things, protect the public, make it easier for auctioneers in this state to practice on an interstate basis, and yet not present any deterrent to auctioneers from other states coming into the state to conduct auctions so long as there is no evidence of wrongdoing on their record.

On behalf of the Association, its 225 members, and the other auctioneers throughout the state who have expressed their interests and support for SB 241, I strongly urge the committee to pass this legislation favorably.

S.G.O.
ATTACH 7
1-30-90

SENATE GOVERNMENTAL ORGANIZATION COMMITTEE
TESTIMONY RE: SB 241

PRESENTED BY BILL BREDEMEIER ON BEHALF OF
THE KANSAS AUCTIONEERS ASSOCIATION
January 30, 1990

Madam Chairman, members of the committee:

My name is Bill Bredemeier, and I am a member of the Kansas Auctioneers Association. In addition, I conduct auctions in numerous states throughout the United States.

Currently, since Kansas did not have a licensure law, it is necessary for me to take significant steps in order to be permitted to participate in some of the states that have licensure laws. Since I do not have a license, I am not able to reciprocate, and thus am forced to, in some instances, take a test in the state prior to my going into the state to conduct the auction. This increases my cost of performing the auction, and puts me at a competitive disadvantage with auctioneers from that state, and with auctioneers from other states that reciprocate with that state.

I know that you will probably hear from the KLA that it will be a burden upon out of state auctioneers to come into our state if we have a licensure law. I truly do not believe that that will be the case whatsoever. We have purposely drafted this legislation that provides for a grandfather clause that will ensure that any auctioneer, whether in state or out of state, who is actively engaged in the business of auctioneering for one year prior to the date of this act, is able to become an auctioneer in this state for payment of only a \$50 fee. I can assure you, a \$50 fee is absolutely no burden on any out of state auctioneer, who will spend far more than that in travel and other related costs in order to come in and conduct the sale.

In addition, any out of state auctioneer coming from a state which is licensed will, in all probability, be able to reciprocate automatically pursuant to that section as well.

This bill will help the general public, will help the state of Kansas, will help our profession in regulating those individuals who might be dishonest, incompetent or otherwise of disservice to the profession and the state.

I strongly urge you to support SB 241.

S.G.O.
ATTACH 8
1-30-90



2044 Fillmore • Topeka, Kansas 66604 • Telephone: 913/232-9358
Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

STATEMENT OF THE
KANSAS LIVESTOCK ASSOCIATION
TO THE
SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION
SENATOR LENA OLEEN, CHAIRMAN
WITH RESPECT TO
SENATE BILL 241
PRESENTED BY
JOE RICKABAUGH, EXECUTIVE SECRETARY,
PUREBRED DIVISION

The Kansas Livestock Association (KLA) is a voluntary trade organization consisting of nearly 10,000 members located in all of the 105 counties. KLA, founded in 1894, has members who are actively involved in general farming and ranching enterprises. The members are predominately cow-calf producers, stocker/yearling operators and cattle feeders.

Thank you Madam Chairman and committee members for giving us the opportunity to present our views about Senate Bill 241, the Auctioneers Bill. Our association took a formal position against this bill at our recent KLA Convention in December.

Our members are concerned on what affect SB 241 could pose on their businesses when conducting an auction. Quite simply, our members want to hire the auctioneer who will conduct a professional auction and gather the most money for them. Often, in order to hire the "best auctioneer" who knows the business and the product, requires hiring an out-of-state auctioneer. Other times, because of a rancher living close to an adjoining state, his choice of an auctioneer also might come from another state. This bill definitely makes it more difficult for all auctioneers to conduct business in this state. This ultimately affects the person who is having the auction. It gives him one more detail to checkout to make sure the sale won't be stopped because he or his auctioneer were unaware of such legislation. Even worse, his first choice auctioneer could refuse doing the sale because of this legislation.

J.G.O.
ATTACH 9
1-30-90

Another reason given as to the need of this bill is protecting the public from dishonest auctioneers. To be quite truthful, we have not heard such complaints. We also feel it is the responsibility of the person who hires the auctioneer to make sure they are hiring a reputable and honest individual. If there are problems with the present system of auctioneering, this bill should be asked for by the people who hire auctioneers rather than the auctioneers themselves.

Presently, there are 26 states that have auctioneer licenses. The requirements definitely vary. In Missouri, in order to acquire a license, you simply go to the county courthouse and pay a fee. You are then licensed. On the other hand, in California, an applicant pays a nonrefundable examination fee of \$50, must provide one set of fingerprints on a form approved by the Department of Justice and pay the fee for fingerprint processing, provide two color photographs, pass the examination, file a surety bond in the amount of \$10,000, pay a pocket card fee of \$10, and also pay the license fee (not to exceed \$600). In addition, if an applicant does not pass the examination, the re-examination fee is \$35. The fee for the administration of an examination other than those that are regularly scheduled shall be \$200.

It is assumed that if Kansas passes this bill, all other states will grant reciprocity almost overnight. I think you can see because of the variance in state auctioneer licensing requirements, the newly formed board of auctioneers in SB 241 would have their work cut out for them. How many times in the future will we get to revisit this law in order to achieve reciprocity with all other states? Instead of a solution, we are creating more of a problem.

Another part of SB 241 that raises some questions is Item 3 under New Section 11. This exemption pertains to sales of livestock by: (i) any person licensed as a public livestock market pursuant to K.S.A. Section 47-101 et. seq., and any person employed as an auctioneer by such public livestock market; and (ii) any person registered with the Packers and Stockyards Administration of the United States Department of Agriculture as a livestock dealer pursuant to the Packers and Stockyards Act, 1921, (7 U.S.C. 181 et. seq.) unless such livestock dealer is selling livestock at auction.

This exemption applies only to auctioneers employed by a public livestock market while that particular auctioneer is selling in the Packers and Stockyards licensed facility. If that same auctioneer goes across the street to conduct a household auction, then he is no longer exempt. Also, this exemption does not preclude purebred auctioneers from this bill.

Madam Chairman and committee members, our association members see little need in licensing auctioneers and creating another bureaucracy. Our members believe they are the best ones to police who or who does not auction for them. Ultimately, the person who hires the auctioneer is the person who gives him the most important license.

I would be happy to respond to any questions or comments on my testimony. Thank you for considering our views on this legislation.

Madam Chairman, Ladies and Gentlemen:

My name is Dean Spencer. I am a native Kansan with a degree in Animal Science from Kansas State University, and have been employed by the American Hereford Journal the past forty years. I reside on my own ranch in Jackson County.

We are grateful for the opportunity to share with you some thoughts regarding the proposed "auctioneer" bill.

During the past forty years, I have represented the livestock press at registered cattle auctions in forty-four states and Canada. At least 99% of these sales have been sold by auctioneers that devote at least 80% of their time to selling registered cattle.

Our good registered livestock people of Kansas know personally the four or five auctioneers who are experts in their particular breed, who have great integrity and know the people who would be interested in buying the cattle produced on their Kansas ranch. At present, they are able to select the auctioneer of their choice without fear of some local auctioneer calling the authorities to enforce some ridiculous licensing law.

The proposed "auctioneer" legislation would be just another bureaucracy that would be of value to no one.

*S.G.O.
ATTACH 10
1-30-90*

To cite an extreme example of what has happened: Several years ago in an eastern state with a newly enacted "auctioneer" license law, a very prominent breeder who naturally was unaware of such an ordinance, had employed an auctioneer from out-of-state to sell his cattle. That auctioneer was also unaware of the new auctioneer law. About ten minutes before starting time of the sale, the local sheriff appeared by request of a jealous local auctioneer. The sheriff asked the out-of-state auctioneer to see his license; of course, he did not have one. The sheriff put him in jail and the owner of the cattle, who had spent half a lifetime building a great herd and had a big crowd in his sale barn, was stuck with the local auctioneer who didn't know a pedigree from a funny paper.

It seems to me, *(the best interests of Kansas registered breeders and the citizens of Kansas would be well served if you reject this proposed legislation.)*

Thank you kindly for your time.

AUCTIONEERS

CHARLES S. EVENSON

P.O. Box 780516
Wichita, Kansas 67278-0516

January 29, 1990

Senate Committee - Governmental Organization

Chairperson - Oleen Vice-Chairperson - Bogina

Members - Doyen, Francisco, Gaines, Kanan, Moran, Strick, Vidricksen

RE: Senate Bill No. 241

General Comments - [As of this date some 26 states have enacted Auctioneers license laws with absolutely no consistency.] If this Bill is enacted, then Kansas would be obstacle Number 27.

Most of the laws in effect are to some extent a derivation of the old Kentucky License law but, again, all of them are different. As of this date the National Association of Auctioneers has not recommended an Auction License law of any kind; they will provide models and you are presently subjected to one of these models slightly modified.

Specific Comments - The proponents of this Bill represent less than 25% of the Auctioneers in this state. According to the mailing list of the Missouri Auction School, the number reflected is around 800.

Financial Comments - In deference to correspondence by Mr. Hein referring to some 600 Auctioneers in this state, let's allow there are 800. The issuance fee for a licensee is \$50.00 and then \$50.00 per year thereafter; based on 800 Auctioneers, this would generate \$40,000.00. From this \$40,000.00, 20%, or \$8,000.00, would go to the legislature, leaving a balance of \$32,000.00. This amount would not go far in maintaining an office, a computer service, a director and staff to do all of the administering projected by this Bill. This fact alone makes this Bill a charade.

Our firm has been a part of this great business for 25 years; let's put this Bill to rest and work to inspire the National Auctioneers Association to introduce a universal type license acceptable to all states and recommended by the Association before we place something on the books that is totally unacceptable.


Charles S. Evenson

CSE:jh

Senate Bill 241

Auctioneer Bill

Madam Chairman, Ladies and Gentlemen, my name is Don Good. The following are reasons why I am against a bill to license auctioneers at this time.

Fifty states and Canada are involved in the purebred livestock business. There are specialized auctioneers in all species of livestock and they have sales wide-spread in the United States and Canada. The legislation to limit an auctioneer without first getting a license in the state he has been asked to sell is unfair and bureaucratic. It promotes mediocrity and limits competition. The auction business is an excellent way of merchandising, but auctioneers should have the freedom to cross state lines without worrying about a license requirement in that particular state. Most purebred livestock producers would oppose this legislation. They want the freedom to contact the best auctioneer to sell their sale regardless of his origin. Such a bill would also inhibit our top livestock auctioneer from selling cattle in Ohio, Kentucky, Tennessee, Mississippi and other states without first being licensed in those states. Let's not create a law that inhibits excellent specialized auctioneers and protects poor ones. We are one nation and with modern transportation, specialized auctioneers travel all over the country. It is awfully hard to create an examination to license an auctioneer for various specialities. A purebred livestock auctioneer would not be qualified to sell a good antique auction. A good antique auctioneer certainly wouldn't be qualified to sell real

*S.G.O.
ATTACH 13
1-30-90*

estate. And certainly, some of our best sale barn commercial livestock auctioneers would not be qualified to sell a top purebred auction. This issue must be given careful consideration before any legislative action should be taken.

I know of a situation in which a top purebred livestock auctioneer traveled to a state that had a licensing program, he did not know it and the people holding the sale did not know it. Just before the sale was to begin, the authorities came to the farm and stopped the auction. They would not allow this auctioneer to sell because he wasn't licensed in that state. Needless to say, the whole purebred sale on that breeders farm was a catastrophe.

I'm not saying that such legislation will never happen. I am saying I don't think that we have thought it through enough on a national basis to make effective legislation to cover all auctioneers in the auction method of merchandising.

Carrithers AUCTION

Auction & Real Estate Service

Box 121 — Johnson, Kansas 67855 — (316) 492-2329

Jan 24, 1990

To Whom It May Concern,

I cannot be present for testimony but I will give you my feelings in this letter.

I am an Auctioneer and Real Estate Broker in Western Kansas—Johnson Kansas to be exact.

I am asking that SB-241, the "Auctioneers Bill" not be allowed on the floor of the Senate. Please "kill" this unreasonable bill in committee.

First of all, I feel it is just a bad bill. I live on the Colorado border and not far from Oklahoma. I auction in both states. If this bill is passed, it will create "Border Wars" with these states. If Colorado and Oklahoma auctioneers can't come to Kansas without a lot of red tape, then they will stop Kansas auctioneer from going into their state. This means me. This action would cut my trade territory in half and would be a hardship on me and my family.

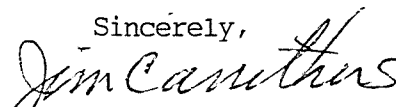
The Auction profession, which I am proud to be a part of, has been around since the Civil War without any regulations and without many problems. We are professional people who have ethics and can regulate ourselves.

This bill is wanted by only a few auctioneers and not wanted by the majority of the auctioneers of the State of Kansas. I do not know what the motives of this small group would be unless it is to eliminate competition.

The program will be tremendously underfunded and will need dues increases or receive money from somewhere to perform the regulations. It is very unusual for a group such as ours to ask for regulation. Maybe some of the motives behind this should be looked into.

Please vote NO.

Sincerely,



JIM CARRITHERS
WORLD CHAMPION AUCTIONEER



5.60.
ATTACH 14
1-30-90

*"The only sale
that matters is yours"*



STANLEY E. STOUT
AUCTION SERVICES, INC.

Senator Lana Oleen
Kansas State Capital Building
Topeka, Kansas 66612

January 25, 1990

Dear Senator Oleen:

I am please to have had the opportunity to meet you last night and I apologize for bringing up Kansas State Legislative business as a topic of conversation at a Kansas State Basketball game. However, it is of great concern for me as auctioneering is my livelihood. Your invitation to attend the hearing next Tuesday is appreciated, but I am conducting an auction that day in South Dakota and will be unable to attend. Therefore, as you requested I am writing this letter listing some of my concerns and opinions.

For selfish reasons, I probably should be in favor of the Auctioneer Licensing Bill. However, I am not in favor of this particular bill. I am fortunate enough to have been hired as an auctioneer, over the last 15 years, in 41 states and Canada to assist in the merchandising of Purebred Livestock. In this timespan I have averaged between 150-210 auctions per year. I presently belong to the National Auctioneers Association and the Kansas Auctioneers Association and I possess state auction licenses in Texas, Kentucky, Indiana, Tennessee and Ohio.

Because we did not in the State of Kansas, have a license law considered to be reciprocal with these states, I was required to fly to each respective state, on a certain day which they selected, take an examination which had nothing to do with professionalism within the auction profession and then pay them my dues so I could work for a resident within their state. It was a problem which I was reluctant to concern my clients with. Some of my fellow auctioneers have been arrested at the sale sight for not having a state license. This can of course have a devastating effect on the success of an auction and it is a problem I don't feel should be encumbered by the people or owners producing the sale event.

I certainly want you to know I am not against an auction license law just to be against change. I bothers me to think we are introducing another regulatory bill that will be non-revenue producing for the State of Kansas in addition to being a bill that could be "licensing more people out than in".

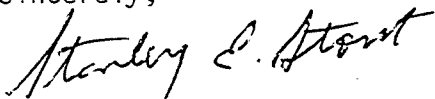
I can forsee situations arising where a person may be required to have a state license, county license and city license in order to work for someone that desires to hire this auctioneer. Most auctioneers specialize in selling a particular commodity which requires, in most instances, constant research and education to enable you as a professional auctioneer to be more qualified in selling that particular commodity than just "any old bid caller".

Even if Kansas does have a license law, there is never any assurance that another state will honor our state license as being reciprocal. Laws are constantly being ammended. For many years the State of Kentucky had a provision in their law exempting Purebred Livestock auctioneers from being licensed. Several years ago in November, I was engaged to sell the National Chianina Sale, held during the National Livestock Exposition in Louisville, Kentucky. Four days prior to the auction, while conducting another sale in Texas, I was contacted by officials in Kentucky that they had changed their law and Purebred Livestock auctioneers were no longer exempt. However they would make a special provision and let me take my examination, both written and oral, on the very day of which the auction was scheduled as an evening event. I did pass all examinations. However, this sale of \$250,000.00 worth of pedigree cattle that were consigned by some 20 different consignors from across the nation was somewhat jeopardized.

There are so many questions concerning this bill. Why should all auctioneers be required to be bonded? I personally seldom handle the proceeds when I sell an auction. Why should "sale barn" auctioneers be exempt just because they sell in a particular bonded barn operating under P & S standards? Why shouldn't sale managers who handle the proceeds also be required to be licensed and bonded instead?

Senator Oleen, there are so many different aspects included in this bill which I believe can present many problems, not only to the auctioneers involved, but to the consignors and to the State of Kansas that I personally am not in favor of the proposed bill. If I can at any time be of assistance, please feel free to contact me. I do appreciate your concern and efforts.

Sincerely,



Stanley E. Stout

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