

Approved 3-5-91
Date

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs

The meeting was called to order by Sen. Edward F. Reilly, Jr. at
Chairperson

11:00 a.m./~~p.m.~~ on February 28, 1991 in room 254-E of the Capitol.

All members were present ~~except~~

Committee staff present:

Mary Galligan, Legislative Research Department
Mary Torrence, Office of Revisor of Statutes
Deanna Willard, Committee Secretary

Conferees appearing before the committee:

Dr. Ramon Powers, Kansas State Historical Society
Senator Wint Winter
Mayor Shirley Martin-Smith, Lawrence, Kansas
Rev. Richard Taylor, Kansans for Life at its Best
Mr. Chuck Magerl, Free State Brewery
Mr. Ken Wallace, Jayhawk Cafe

Hearing on: SB 6 - Procedure for state acquisition of historic property.

Dr. Ramon Powers, Director, Kansas State Historical Society, gave testimony supporting the bill. He said it refines existing legislation that sets forth the procedures and criteria to be used by the state historic sites board of review. The board would no longer be required to make a judgment on the cost versus the historical value when evaluating properties proposed for state acquisition. (Attachment 1)

The same information currently provided to the Legislature would still be provided, including reports, findings, and recommendations.

Hearing on: SB 232 - Grounds for revocation or suspension of license of club or drinking establishment.

Senator Winter, sponsor of the bill, was the bill's first proponent. He said the ABC Director has no authority to withdraw or non-renew licenses when a club is operated in a way that creates a danger. He has authority to revoke a license when there are violations inside the establishment but not for violations which occur outside and which are directly related to the facility. Though there are places that cause many problems, the ABC Director can't say "clean up your act." He said that alcohol must be served responsibly; this bill would give the ABC Director authority to bring pressure on the few operators who don't act responsibly. These few clubs create a tremendous burden on law enforcement. This bill creates a "good neighbor" requirement. He distributed petitions signed by citizens of Lawrence who support SB 232 as "giving the Director of the ABC the necessary authority to revoke or suspend a license in a case where there is a significant record of problems related to a facility." (Attachment 2)

He suggested amendments to the bill: 1) P. 2, Line 6, insert "willfully" after licensee; 2) Line 7 would read, "permits, creates, causes, or otherwise allows conditions or"; 3) Lines 11, 12, and 13 through "premises" would be struck.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs,
room 254-E, Statehouse, at 11:00 a.m./~~p.m.~~ on February 28, 1991

He suggested that a sentence might be added stating that the operator has neglected to act responsibly.

Mayor Shirley Martin-Smith, Lawrence, appeared in support of the bill, saying it strengthens the tools both state and local officials can use to regulate problem licensed premises. (Attachment 3)

Rev. Richard Taylor distributed testimony in support of the bill, which says that those who make a profit selling alcohol must be held responsible for the problems caused. He asked committee members to read it at their convenience. (Attachment 4)

Chuck Magerl, Free State Brewery, spoke in opposition to the bill, saying that it is a serious threat to every licenseholder in the State. (Attachment 5) Included with his testimony were letters from two other Lawrence businesses which cited concerns with the bill. Mr. Magerl suggested the words "otherwise allows" on P. 2, Line 7 be struck, and that the other revisions suggested by Senator Winter be made.

Ken Wallace, Jayhawk Cafe, spoke in opposition to the bill, saying that the problem addressed by the bill is local in nature and there is already a range of options available to local levels of government. (Attachment 6)

Jim Conant, Director of the Alcohol Beverage Control, said that Senator Winter worked with them in drafting the bill. The Director's testimony will be heard at the next meeting, March 5.

The minutes of the February 27, 1991, meeting were approved.

The meeting was adjourned at 12:00 noon.

STATEMENT OF DR. RAMON POWERS, EXECUTIVE DIRECTOR, KANSAS STATE HISTORICAL SOCIETY, BEFORE THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS IN RE SENATE BILL 6, FEBRUARY 28, 1991

Senate Bill 6 amends existing legislation that sets forth the procedures and criteria to be used by the state historic sites board of review in evaluating historical properties that the public proposes for state acquisition through a petition process. That statute was originally enacted in 1982 and amended in 1987 and 1988.

The existing statute identifies nine factors that the historic sites board of review must consider in its evaluation of a property. It also requires that the board make findings and recommendations to the governor and the legislature concerning state acquisition of a property. Senate Bill 6 removes the requirement that the board shall make recommendations to the governor and the legislature on whether or not the historical significance of the property justifies the cost of acquisition, development, and interpretation. Instead the board would provide the governor and the legislature with a report stating the results of its study of the property and its findings on each factor. Senate Bill 6 also restates or clarifies the factors the board should consider and separates into two factors two unrelated items that are now combined.

Since 1982 the board has been asked to evaluate five properties proposed for state acquisition. In all cases, the board voted to recommend that the properties be acquired by the state. History

has demonstrated that the state historic sites board of review, which by the very nature of its existence must be a proponent for preservation of historic properties, is predisposed to favor state acquisition, particularly of endangered properties. When forced to deal with a choice between high costs, perhaps even exorbitant costs, and the loss of a property, the board has always voted for state acquisition. It is our assessment that the board regards itself as a pro-preservation board and will not recommend against a property when that adverse recommendation could lead to the destruction of that property. This amendment would no longer require the board to make a judgment on the costs of acquisition, development, etc., versus the historical value of the property. That judgment is one the legislature has had to make over the years and one which should rightfully be left to the legislature. The board's findings on the history, significance, and costs of a proposed property will be provided for the use of the legislature and the governor.

In conclusion, we don't believe that this bill represents a major departure from the existing legislation. It is merely a refinement of a process which we think has been useful to the state in screening properties proposed by various organizations for state acquisition.

Ed Reilly, Chair
Federal and State Affairs Committee
State Capitol
Topeka, KS 66612
February 26, 1991

Dear Chair Reilly:

We, the undersigned, are residents of Lawrence who over the years have been concerned with problems related to clubs and drinking establishments in our neighborhoods. In a few cases, conditions have existed which we feel have constituted a danger to our public safety, health, and welfare.

We feel that passage of the amendment to Senate Bill No. 232 would give the Director of Alcoholic Beverage Control the necessary authority to revoke or suspend a license in a case where there is a significant record of problems related to a facility. This would be an important step in protecting our community.

Signed,

Jack Kapper 921 Illinois St. Lawrence, KS.
Jennifer Brown 2624 Moundview Dr. Lawrence, KS
Deb Kake 917 Illinois Lawrence, KS
Jim Pette 2030 Ousdahl Lawrence, KS.
Michelle Sahl 936 Ohio Lawrence, KS
John Sahl 936 Ohio Lawrence, KS
Linda Hixon 1146 Ohio Lawrence, KS
George Kaffer 921 Illinois Lawrence, KS.
Debra Jennings 817 Louisiana Lawrence, KS
Peter Baker 573 Arkansas Lawrence, KS
Dean Boyd 1705 E 21 Terrace Lawrence KS
Mary Thomas 1642 Indiana Lawrence KS. 66044

Senate F&SA
2-28-91
Att. 2

Mason J. Bailey	1625 Oxford Rd.	Lawrence Ks.
Chelsea Kupper	1810 Alabama	Lawrence Ks.
John M. Denny	926 Illinois	" "
Cindy M. Denny	" "	" "
Gordon Bower	4100 W. 13th	Lawrence KS.
Judith a. Johnson	806 W. 29th St.	Lawrence, KS
Marci Francisco	1008 Ohio	Lawrence, KS

The following list is of those who were unable to personally sign the letter on such short notice, but placed in their support for any action which would alleviate some of the problems associated with bars and drinking establishments in their neighborhood.

Lisebeth Jensen	934 Ill.	Lawrence, KS
Penny Harris	"	"
Gail & Richard Reber	916 Alabama	Lawrence, KS
Peter Van Dyne	10th, Miss.	"
John Frydman	933 Miss.	"
Noel Cooke	836 Ill.	"
Sean McKain	826 Ill.	"
Allyn Denny	"	"
Chuck Snyder	937 Ill.	"



City of Lawrence KANSAS

CITY COMMISSION

MAYOR

SHIRLEY MARTIN-SMITH

COMMISSIONERS

ROBERT L. WALTERS

DAVID PENNY

MIKE RUNDLE

BOB SCHUMM

MIKE WILDGEN, CITY MANAGER

CITY OFFICES

6 EAST 6th

BOX 708

66044-0708

913-841-7722

To: Chairman Edward F. Reilly and members of the Senate
Federal and State Affairs Committee
From: Mayor Shirley Martin-Smith, City of Lawrence
Date: February 28, 1991
Re: Senate Bill 232 -- Private Club Licensing Law

As Mayor of the City of Lawrence, Kansas I appear before you today representing the City's strong support for Senate Bill 232. The proper regulation of licensed premises requires a strong partnership between state and local officials, and we urge this Committee's serious consideration of Senate Bill 232 which strengthens the tools both state and local officials can use to regulate problem licensed premises.

Senate Bill 232 contains three major sections, which I will address in my testimony.

Section 1 -- Amending K.S.A. 1990 Supp. 41-2611 to allow revocation or suspension of license for repeated harm to public safety.

Most private clubs and drinking establishments, are operated in a manner that is neither a threat to public safety nor a problem for state or local law enforcement officials. However, a few clubs and bars do operate which attract or foster illegal conduct and activity, harm the surrounding neighborhood, endanger the public safety, and create a burden on local law enforcement officers. In 1990 the Lawrence Police Department reported 145 incidents in or near private clubs and drinking establishments, 44 of these incidents were related to one particular private club. The incidents included aggravated assault, disorderly conduct, aggravated battery, vandalism, theft, illegal discharge of a firearm, and sexual battery. While Lawrence police officers vigorously enforce applicable laws regarding these incidents, the state law licensing these establishments allows the clubs to continue to operate even though they are repeatedly attracting patrons who cause personal injuries, damage private property and otherwise seriously disrupt public safety.

New section (j) of Senate Bill 232 addresses this issue. Under this proposed provision the license can only be revoked or suspended if (1) there is a link between the operation of the club and the dangerous activities listed; (2) the conditions or conduct are of a repeated or habitual nature -- a one time incident will not result in a revoked license; and (3) a finding that the operation of the licensed premises constitutes a danger or harm to public safety, health and welfare is required.

Senate F&SA

2-28-91

Att. 3



Examining the current (a) through (i) listing of reasons for revocation or suspension, new section (j) is a reasonable additional safeguard on licensed premises. The purpose is not to harm reputable establishments and clubs, but only revoke or suspend the license of those which repeatedly endanger public safety. The current language in the bill may need to be fine-tuned to ensure that this objective is met. However, it is difficult to find fault with the argument that clubs or drinking establishments which continually cause these serious public safety problems should not be allowed to continue to operate unaccountable to the harm they cause a community.

Section 2 -- Amending K.S.A. 1990 Supp. 41-2613 to clarify law enforcement right of entry to licensed premises.

In enforcing applicable state and local laws regarding licensed premises, our law enforcement officers have been challenged with an opinion by an attorney representing a private club that K.S.A. 41-2613 only allows entry when the club is open for business. While our legal counsel and Alcoholic Beverage Control (ABC) officials disagree with this interpretation, we urge the Legislature to amend the statute to make it abundantly clear that law enforcement entry is not limited to hours of operation but shall also apply during hours when the club is not open for business. Any other reading of the statute greatly harms the ability of law enforcement officers in the performance of their duties.

New Section 3 -- Allowing local government notice and participation in licensing decisions.

This section allows the state to notify cities, townships and counties after their request of applications for license or renewal. This should not create an unreasonable burden on Alcoholic Beverage Control because such notification will only be to local units of government that have requested the notification. The remainder of New Section 3 allows local governments to participate in a hearing on the license and state officials to consider the testimony and evidence in granting or refusing the license. It is appropriate to involve concerned local government officials in these decisions given the impact licensed premises operations can have on a community.

The City of Lawrence appreciates the opportunity to share our concerns with the Committee, and strongly urges your favorable report of Senate Bill 232.

February 28, 1991

Senate Bill 232

Hearing in Senate Federal & State Affairs Committee

Rev. Richard Taylor

KANSANS FOR LIFE AT ITS BEST!

Lincoln visited Kansas in 1859. Captain J. R. Fitch tells of a reception in Leavenworth where alcohol was served and most partook except Lincoln. When asked why, Abraham Lincoln used his knowledge of Shakespeare and told Captain Fitch, "My young friend, do not put an enemy in your mouth to steal away your brains."

"O that men should put an enemy in their mouths to steal away their brains! that we should, with joy, pleasance, revel, and applause, transform ourselves into beasts!"

-Othello, Act 2, scene 3

Drinking impairs thinking. Those who make a profit selling the drug must be held responsible for problems caused. This bill is a big step in the right direction.

When persons become dealers in our most abused drug, they know Kansas has laws that reduce drug use and abuse, and they know their rights as business people are very restrictive. The courts have said it well:

U.S. Supreme Court 34L Ed 2d 805

Kansas Supreme Court, Vol 195, page 748

§ 2. Summary

It is settled that under the Twenty-first Amendment, the states have the power to absolutely prohibit or to limit and regulate traffic in intoxicating liquors within their borders,³ and that such power is not generally limited by the commerce clause⁴ or the equal protection⁵ and due process⁶ clauses of the Federal Constitution, insofar as such regulations discriminate against or impose special burdens on activities and persons involved in such traffic.

2. ~~SAME~~—*Power of State Under Amendment—As to Alcoholic Liquor—Police Powers.* Pursuant to the Twenty-first Amendment to the Constitution of the United States, a state may authorize or prohibit the consumption of alcoholic liquor and adopt measures reasonably appropriate to effectuate its policy in the exercise of the police power, unfettered by the due process clause and the equal protection clause of the Fourteenth Amendment or the commerce clause of the Constitution of the United States.

Senate F&SA

2-28-91

Att. 4

February 28, 1991

Dear Senator Reilly & members of Federal and State Affairs Committee,

Thank you for the opportunity to speak to you regarding S.B. 232. My name is Chuck Magerl. I am the proprietor of the Free State Brewing Company, a microbrewery and drinking establishment in downtown Lawrence. We've been in business for just over two years. Our ability to open our business here in our state is based largely on the work done by Sen. Winter and this Committee several years ago, at the time the liquor by the drink reform was going through the Legislature.

I had the opportunity to visit with many of you during hearings that year, and I've had the chance to visit with several of you at our business in Lawrence. I believe your visits to our business have shown you that it is a clean, friendly, attractive and well run business. Our standards are high for our food and beverages as well as our service and facilities. For the most part our customers have honored us with fine behavior and repeat patronage. We've only had to call law enforcement officers twice in two years, and both of those occasions involved people who arrived at our business in abusive moods. Similarly, we've had no complaints from any of our neighboring businesses. We go out of our way to patrol for litter along the sidewalks, street and alley that serve our business.

Several people involved in the promotion of this bill have told me not to worry, this bill isn't going to affect us. I simply don't see the language in the bill that would agree. If I thought this proposal wouldn't threaten my livelihood and my personal investment, I wouldn't be here.

S.B. 232 is a serious threat to every licenseholder in the State of Kansas, and would completely devastate entire districts like Downtown Lawrence. If this bill is passed, one trouble spot in our downtown area could close ten independent restaurants and clubs. Perhaps this law could only be enforced on a selective basis, and only unfavorable and nuisance operations would be targeted for action, but it would require the abandonment of the concept of justice for all. If any one particular businessperson in downtown could be cited for unintentionally permitting unsafe conditions to exist in a 1000 foot radius, justice would demand that all businesspeople operating in the area receive the same sentence.

I know that some of the actions cited in this bill do occur within 1000 feet of my business currently. Am I to empower vigilante squads to enforce my laws in order to save my legal and otherwise peaceable business? If a

Senate F&SA
2-28-91
Att. 5

patron of my business violates our code of conduct inside my business, where I am responsible, I have the right to enforce our code and force their removal. If I am to be held responsible for the behavior of every individual in any home, office, business, vehicle, or on public property within 1000 feet of my operation, do I also hold the same rights to forceably remove them from my 1000 foot sphere of influence? Am I permitted to use firearms to enforce my responsibility? Perhaps most unfortunately, I certainly won't want to call the police to resolve a problem, because that notification of the authorities could result in the loss of my livelihood and investment.

The potential also exists within this legislation to provide a vengeful person or group with the route to close my business and destroy my career. If this law was enforced, an employee fired for theft or substance abuse could promote the unsafe actions cited in this bill and close my business. Fanatical special interest groups could decide to blockade the public sidewalks in front of my legal business and by their actions close my business. This is indeed Carry Nation's dream come true.

This bill is simply a very poor piece of legislation that the City of Lawrence has clearly not thought out. It should not be allowed to pass out of this Committee. I wish I had a simple solution to the couple of trouble spots that have vexed the people of our city. Perhaps a task force of concerned parties should be selected by city officials in Lawrence to address these problems and return next session with some workable alternatives. This bill should clearly not be one of them. Thank you.

I've also included copies of letters from just a couple of the Downtown Lawrence businesses that have discussed this bill with me.

Chuck Magerl

Chuck Magerl
Free State Brewing Company
636 Massachusetts
Lawrence, Kansas
(913)843-3512

Feb. 27, 1991

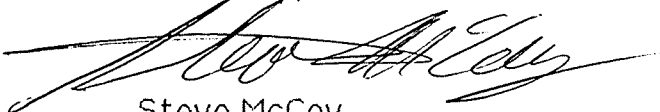
Paradise Cafe
728 Mass.
Lawrence, Ks. 66044

Dear Sen. Winter,

Many people in Lawrence would agree that an occasional nightclub, bar, or restaurant exists that has more than its fair share of "noise, trash, vandalism, and violence." However, making an entire group of business people responsible for the neglect of a few is not a viable solution. The responsibility of the business owner is not clearly defined as the bill is presently written. Clubs and restaurants should not held accountable for circumstances beyond their control. How can this law be fairly enforced when a diverse group of businesses share a common parking facility?

Clarity is required in this bill. Businesses with liquor licenses should be responsible in their actions, but not responsible for the conduct of every individual "within a 1000 feet of their premissis."

Sincerely,

A handwritten signature in black ink, appearing to read "Steve McCoy", written over a horizontal line.

Steve McCoy
President Paradise Inc.

February 27, 1991

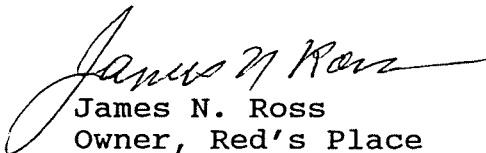
To Whom It May Concern:

The foundation of this country is based on free enterprise and if the proposed Senate Bill 232 gets anywhere in the legislative process, that foundation has begun to crumble. This proposal does not seem to be constitutional as written, and it must be voted down.

The proposed bill would be devastating to all business owners affected. They would feel the need to start "policing" the area outside their business to avoid the possibility of an "incident" occurring within the 1000 feet set forth in the proposal. This policing could lead to vigilante justice and is, in itself, "a danger or harm to public safety, health and welfare." Business owners are just that, business owners not policemen, and this policing should be left in the hands of trained law enforcement officers, not individuals of the community.

I am also concerned because this proposed bill could be damaging to my business. Within the stated 1000 feet are other liquor establishments which may, or may not "produce" a condition that could be cause for my business being closed. This would be unfortunate for any business owner and especially one for which the "incident" didn't arise.

Please reconsider the proposed bill and the devastating effects it could cause in the downtown Lawrence area.


James N. Ross
Owner, Red's Place

COMMENTS ON PROPOSED SENATE BILL 232

by Ken Wallace

Representing The Jayhawk Cafe, Lawrence, KS

Senate Federal and State Affairs Committee

February 28, 1991

Mr. Chairman and members of the committee, I thank you for the opportunity to address you regarding proposed Senate Bill 232. My name is Ken Wallace and I am the owner of the Jayhawk Cafe, formerly a beer tavern and now a "Class B" private club in Lawrence, Kansas. I have owned this business, commonly known as "The Hawk" since 1974. It is located in the middle of what is called "The Oread Neighborhood," a predominately residential area of subdivided older homes next to the campus of the University of Kansas.

In addition, I have been involved in the saving and renovating older houses in the Oread Neighborhood and currently own and manage three apartment houses in the area near my business. I also speak as a 15 year Oread resident. I live within 1,000 feet of three popular student drinking establishments and therefore I am acutely aware of the impact they have on the neighborhood. The safety and security of the area is of great concern to me as I walk home from work every night.

I am here today to comment on changes to the state liquor statutes proposed by Senator Winter in response to neighborhood concerns in Lawrence. I am not unmindful of these concerns as they are similar in some respects to problems I have faced over the years. However, I do not believe that this bill represents a practical, workable or equitable solution to these problems.

Let me first address section 1(j) which could penalize license holders for nearly every crime committed within a thousand foot radius of their establishments. That could potentially impute responsibility for actions occurring in or about any of the over 750 apartment units plus fraternities, sororities, residence halls and two other bars which are located within 1,000 feet of "The Hawk." Many of the numerous private

parties in the neighborhood generate complaints and are broken up by the police. These parties would be occurring whether or not "The Hawk" was located in the neighborhood. Yet this proposal could conceivably hold me responsible for the problems occurring at these parties.

In addition, the 1,000 foot "zone of responsibility" would overlap between many, if not most, licensed establishments raising questions about who would be assessed the responsibility for any problems that might occur.

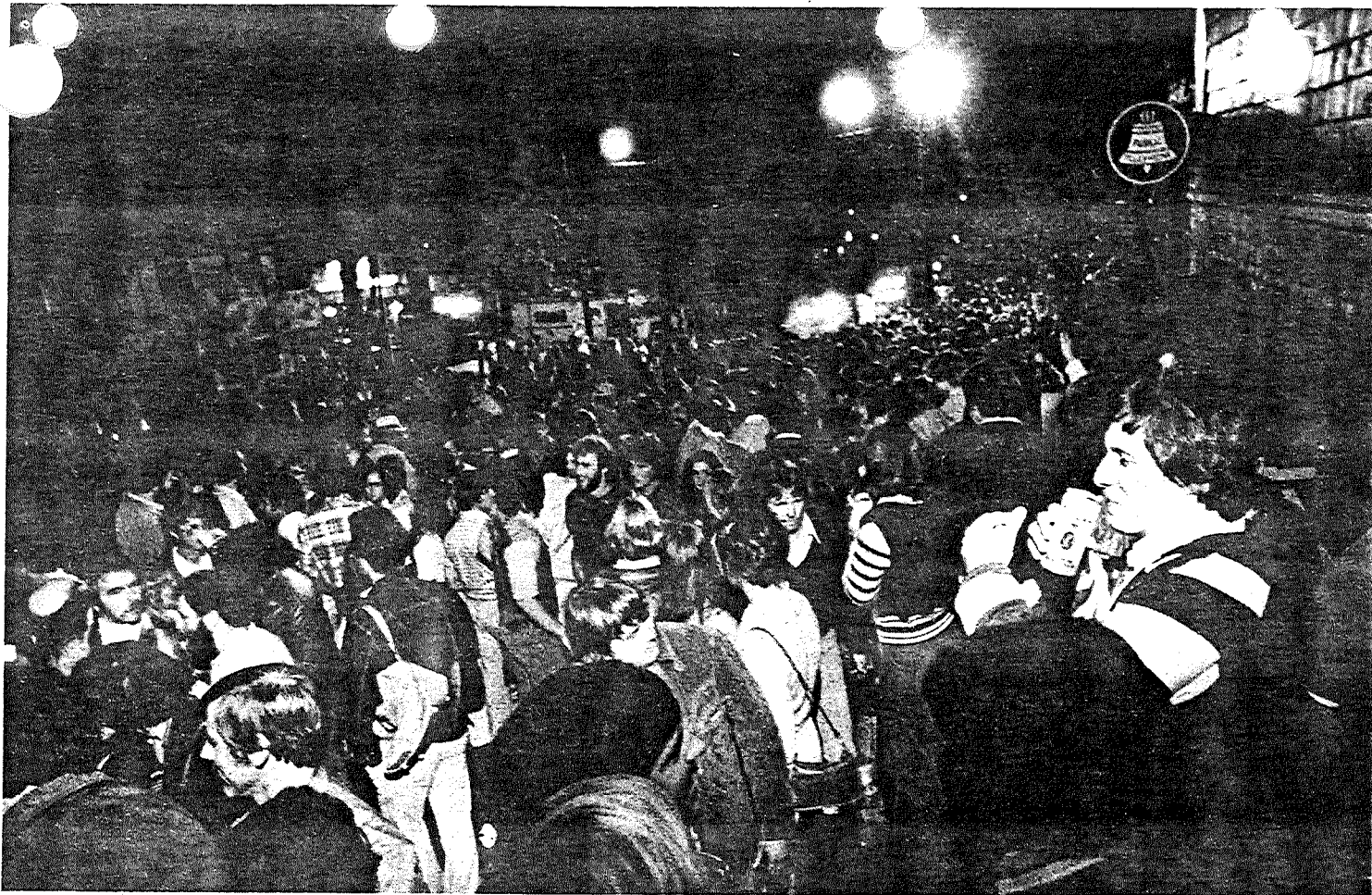
This bill also adds a new section 3 which requires notification to the local unit of government when a license is issued or renewed. I have no problem with such notification being made, but the 10 day waiting period coupled with the time required to hold an administrative hearing could delay the licensing procedure past the expiration of the old license. The time frame for such a hearing is not specified nor are provisions made for testimony to be heard from the licensee.

There are many other reasons why I feel this bill is unworkable. But my primary reason for opposing it is simply that it is the wrong way to address the problem. Legislative authority for the regulation of alcoholic beverages has traditionally been granted to lower levels of government. The federal government gives most regulatory power in this area to the individual states. States often allow counties or cities to regulate alcohol or modify state laws to suit local needs.

Kansas recognizes the unique needs and concerns of local governments and grants them home rule powers to deal with these concerns. Some cities have already passed ordinances aimed at perceived bar-related problems. The fact that these ordinances are not identical demonstrates the unique concerns of various cities and their unique attempts to find workable solutions. The local levels of government can and should deal with local problems.

Often the solution to problems of this nature is not the passage of more laws. Every attempt should be made to alleviate neighborhood impact situations through cooperation between the city, the neighbors and the licensee. In 1975, massive crowds after football games led the Lawrence city commission to order the closing of student taverns after home football games. Later, reason prevailed and cooperation led to a solution that greatly reduced game day problems. Newspaper clippings explaining the solution are attached. 15 years later, the situation after games remains under control. No new laws were passed.

Therefore, Mr. Chairman and members of the Committee, in recognition of the unique and local nature of the perceived problem addressed by this bill and the range of options already available to local levels of government, I would request that you not recommend this bill to the full Senate. Thank you for your attention and your consideration.



Staff Photo by PAUL ROSE

Spillover

Bar patrons spilled onto the street near the corner of 14th and Ohio streets Saturday night after KU's football game victory over Kansas State University. Lawrence police received reports of crowd problems both Friday and Saturday nights. On Friday,

when a crowd estimated at between 400 and 600 people filled the intersection, police arrested at least five persons for various minor infractions. Although called to the scene again Saturday night, police said they made no arrests.

Students arrested at beer blast

At least five persons, including three University of Kansas students and a K-State student, were arrested by Lawrence police officers in a disturbance late Friday night at the corner of 14th and Ohio streets.

The officers, responding to a call from KU police, arrived to find 400 to 600 people in the area, police said.

Numerous city ordinances were being violated, police said, including consuming beer on public streets, urinating in public, littering and verbally assaulting the police officers.

The arrests were made as officers attempted to disperse the crowd, police said.

KU students arrested were James C. Burton, Olathe sophomore, for drinking beer in public; Jimmy C. Gaede, Wellington junior, for disorderly conduct and resisting arrest; and Perry C. Ashcraft, Wakefield junior, for drinking beer in public and resisting arrest.

Gary R. Peel, K-State freshman, was arrested for blocking the roadway. Scott E. Parris, 2411 Louisiana St., was arrested for disorderly conduct and resisting arrest.

The five were released after being given notices to appear in court.

Police advised the managers of the nearby Wagon Wheel and Jayhawk Cafe to stop

selling beer at 11:45 p.m. to help disperse the crowd. Police said that both taverns complied with the request and the crowd dispersed.

But police were recalled to the scene at 12:07 a.m. to disperse the crowd. They made no arrests at that time, even though bottles and cans were hurled at them, police said.

November 5, 1975

Commission asks taverns to close for home games

By BRUCE SPENCE
Staff Writer

The managers of three taverns in the area of 14th and Ohio streets will be asked by the Lawrence City Commission to close their establishments at noon on the days of home football games.

Commission's motion passed 3-2 with Mayor Barkley Clark and Commissioner Fred Pence dissenting. It was an attempt to alleviate crowd problems that have plagued the area for some time in spite of efforts during the last two weeks to ease the situation.

The three taverns are the Wagon Wheel Cafe, 507 W. 14th, owned by John Wooden, the Jayhawk Cafe, 1340 Ohio St., owned by Ken Wallace, and the Bierstube, 1344 Tennessee St. owned by Whit Shea.

COMMISSIONER Carl Mibeck, who made the motion, said, "I think the owners will comply with it."

Mibeck said that the measures to control the crowds at 14th and Ohio streets had been ineffectual. Instead of revoking the licenses of the establishments there, Mibeck said, a closing down just during home football game days might be sufficient.

Wallace, the only owner of any of the three establishments present at the meeting, asked the commission to hold back on any action closing the taverns.

Wallace said that a bigger problem might arise when people showed up in that area and then had no place to go.

When telephoned after the decision, Wooden said that he didn't know what would happen now and would discuss the situation with Wallace.

"We'll just have to wait and see," he said.

After the meeting Shea said, "I am more than willing to cooperate with the city commission, but I don't think that this bar contributes to the problem."

Some of the city commission discussion concerned the possibility of people shut out of the Wheel and the Jayhawk filtering over to the Bierstube and still causing the same crowd problem.

Shea said his establishment was usually quiet on Saturdays.

"I know of no complaints of the Bierstube, ever," he said. "I'm very shocked."

Shea said he didn't rely on the Saturday crowd because he had a different type of customer.

"I don't think any of the bars should be shut down," he said.

City Manager Buford Watson said that a police report of the crowds last Saturday indicated that the area was blocked off from traffic and that property damage was infrequent. Watson pointed out that last Saturday's crowd did follow the largest crowd ever to see a Kansas sporting event.

HE SAID that beer had gone out of the tavern into the streets and that bottles had been thrown at police officers who were stationed there.

Watson said that tavern owners had tried to keep beer inside their establishments and that they had trouble with some people wanting refunds because of that.

There were some accusations of police brutality, he said.

City Police Chief Richard Stanwix, who was asked for advice on the situation, said that coming cold weather might alleviate the crowd problem.

He said that he didn't want to open the streets to allow beer there as it would only cause more problems.

He said it was a bad situation but not the place to use tear gas as had happened in the 1970 riots.

"I think it's a shame that the Wheel and the Jayhawk have so much business that they can't handle it," Stanwix said.

Police had about 500 or 600 cans of beer that people had brought taken from the area, he said, and some people were already drunk before they entered the area.

Commissioner Donald Binns said that he saw the crowd and that they were rude and insulting to the police officers, who were subjected to obscenity and jeering.

"I COULDN'T have taken that myself," he said. "Something should be done about it."

Binns said that the establishments should be asked to close for the game days and if they didn't, the city should use legal procedures to keep such "public nuisances" from occurring.

Wallace said that the commission should consider that the crowd problem was not an overnight phenomenon but built up over a long period of time.

He said that the tavern owners had done everything they could to comply with city recommendations but that the problem couldn't disappear in just two weeks.

"I believe we're doing the best job we can to keep the beer inside," Wallace said.

"The question is, are the tavern owners violating the law or are the people violating the law?"

Binns said that the crowds had long been the subject of numerous complaints.

"The thing that really bugs me about this whole thing is that this kind of thing can't go on," he said. "Measures are going to have to be taken to stop this."

Mibeck said that several weeks earlier he was convinced that city measures such as blockading the area off from traffic might work but that the incidents of last Saturday raised some serious questions.

"I THINK that law without enforcement is a mockery," he said.

He said he saw full cans of beer thrown on passing cars. Some cars were stopped by some of the crowd, Mibeck said, and the occupants bothered.

The commission also indicated that it might talk with student representatives about possible further solutions to the crowd problems.

The commission said the owners would be able to reply at next Tuesday's meeting since the topic had been added to the agenda too late to allow the owners to prepare for the discussion.

City and bars reach agreement

By **TIM PRYOR**
J-W Staff Writer

Beer will be sold at three bars on 14th Street after Kansas University football games.

The Lawrence City Commission agreed Tuesday to accept a compromise to closing The Wagon Wheel Cafe and Jayhawk Cafes, 14th and Ohio, and the Bierstube, 14th and Tennessee.

Jayhawk owner Ken Wallace presented the compromise on behalf of the bar owners. They pledge to continue past practices designed to contain the crowds that gather after football games at 14th and Ohio, and make some more changes.

THE BARS WILL continue to curtail bottled beer sales and carry-out beer sales on game days; sell beer in different cups than are used to sell soft drinks; post "no beer outside" signs, station doormen at the exits and police the area.

They also pledged to modify the fence installed at The Wheel so beer cannot be passed through it. The fence was built in an attempt to contain the crowd.

The Wheel will obtain identifiable uniforms for its doormen, similar to those used at the Jayhawk. All cans of beer will be opened when sold; additional employes will be posted in the street to improve crowd control and property protection; and a full page advertisement will be placed in the University Daily Kansan Thursday, urging cooperation.

The ad is an open letter to patrons of The Wheel and Jayhawk (The Bierstube has had no crowd problem and does not cater to the same clientele). It urges the customers to obey the law, demonstrate respect for private property and the police.

IT NOTES THE Kansas Union will be open after the game, and

can accommodate 800 persons, and ends with a warning that "The future of the Wheel and Hawk depends on you."

Commissioner Carl Mibeck opposed approving the compromise. He accused other commissioners and the bar owners of minimizing the problem, and reiterated cases of disrespect for the police and property damage he had seen after the Kansas University-Kansas State University football game.

He said the city has a precedent for closing a bar, as it forced the closing of The Pub, on Massachusetts Street. Mibeck said the only difference between the cases is that the complaints against The Pub came from businessmen, not residents, and that the clients of The Pub were black.

"I'm not intimating any racism is involved," Mibeck said, "but college students have no more right to call a policeman a

name than anyone else."

Loren Impson, 1032 Ohio, who owns rental property across the street from The Wheel and Jayhawk, said the main problem is The Wheel.

HE SAID THE Jayhawk does a commendable job of keeping its people inside, and the Bierstube should not have been involved at all. "That's a completely different place," he said. "I don't know how the Stube got involved."

Impson said agreements had been reached with John Wooden, owner of the Wheel, before, and that they had not been kept.

Marie Lynch, who said she was forced to sell the property Impson now owns, because of the Wheel, said the commission should consider the business people who lose money because they can't rent property in the area.

She said The Wheel is breaking the law and should be closed.

"I break the law," Commissioner Fred Pence replied. "My business is a non-conforming use."

"You don't sell potted marijuana plants," Mrs. Lynch replied. (Pence owns a greenhouse.)

"I haven't figured out how to do that yet," Pence answered.

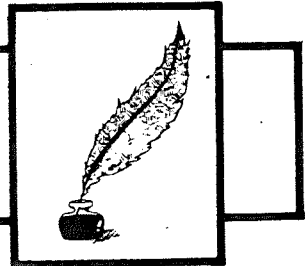
PENCE ARGUED that a line must be drawn on law enforcement, and that the businesses can't be closed because of the behavior of their customers, especially when they are trying to cooperate.

Ed Rolfs, KU student body president, urged the commission not to close the bars. He said many students are pledging to keep down the problems and

See Beer, page 36

COMMENT

Opinions on this page reflect only the view of the writer.



Bars on probation

What could have been a divisive confrontation has been averted. Cool reasoning prevailed over emotional pleas at Tuesday night's Lawrence City Commission meeting, and, as a result, bars east of campus will continue to be permitted to sell beer following home KU football games.

It would indeed have been a foolish and dangerous mistake for the commission to have decided against the bars' sales on game days, but it would have been equally foolish for the civil authorities to continue to passively accept the disturbing revelery that had become a part of post-game scenes at 14th and Ohio streets.

The commission and the bar owners, however, were able to reach a successful compromise. An extensively documented alternative to Saturday

closings was unanimously approved by the commission; its impact is equivalent to placing the bar owners on probation while they make every effort to solve their crowd-control problems.

Certainly, their problems of unruly crowds, disrespect for security personnel and widespread littering can be corrected. But this can happen only if their patrons make an effort to help during their partying following the Colorado and Missouri games.

A full-page advertisement appearing elsewhere in today's Kansan explains the fine points of the bar owners' plans for crowd control. Although adoption of the new rules will require that some old habits be changed, the regulations certainly don't appear too stiff when considered in light of the alternatives.

Dennis Ellsworth
Editor

TO THE PATRONS OF
THE WHEEL
AND
THE HAWK



Beginning this weekend the Wheel and the Hawk must enforce public drinking laws tighter than ever before. Due to hostility and misunderstanding between the patrons of these two taverns and the residents of the surrounding neighborhood, the very existence of these two popular gathering places has been threatened.

We must remind you that drinking beer in the street is illegal:

EXCERPT FROM CITY OF LAWRENCE CEREAL MALT BEVERAGE ORDINANCE

4-211. CONSUMPTION PROHIBITED IN PUBLIC: PENALTY. No person shall drink or consume beer or any cereal malt beverage as defined by the ordinances of the city of Lawrence and the laws of the State of Kansas, upon the public streets, alleys, sidewalks, roads, or highways, or inside vehicles while upon public streets, alleys, sidewalks, roads or highways. Any person violating any provision of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not to exceed one hundred dollars (\$100) or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment. (Ord. 3414, Sec. 1 and 2)

Local law enforcement officials have indicated their intent to fully enforce this ordinance. In accordance with the law, neither the Wheel nor the Hawk will allow beer to go into the street.

If you feel, as do many of our patrons, that the after-game crowd situation should be handled differently, let your comments and suggestions be known to the city commission and police department. However, until alternative solutions to handle football game crowds have been found, please help the Wheel and Hawk stay in business by respecting the property of the neighbors and cooperating with the tavern management in their attempts to enforce the city's strict guidelines.

We thank you for your support and patronage.

John Wooden

Wagon Wheel Cafe

"Count" Ken Wallace

Jayhawk Cafe

Events

TO THE PATRONS OF THE WHEEL AND THE HAWK:

The future of after-game gatherings at the Wheel and the Hawk depends upon your conduct after this Saturday's football game. It is vitally important that you follow these guidelines —

- 1) Be forewarned that it is illegal to drink in the street and violators will be subject to arrest.**
- 2) Do not bring beer into the 14th and Ohio area.**
- 3) Do not attempt to take beer out of the Wheel or the Hawk.**
- 4) Do not attempt to pass beer over, under or through the courtyard fence at the Wheel.**
- 5) Use the rest rooms inside the Wheel and the Hawk.**
- 6) Place litter in the trash cans provided.**
- 7) Do not park cars in private lots or in front of driveways.**
- 8) Do not litter or trespass upon private property.**
- 9) Do not throw beer cans or other articles.**
- 10) Obey all law enforcement officers and treat them with respect.**
(Disrespect for the police was the number one complaint after the last home football game.)

If you do not feel that you can follow these guidelines, please do not come into the area at all. The Kansas Union can accommodate 800 people if you would like to sit down while you drink a beer. Remember that city officials and members of the regional press will be observing and evaluating the crowd's behavior around the taverns.

THE FUTURE OF THE WHEEL AND THE HAWK DEPENDS ON YOU!!!