

Approved: 4-28-93  
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Jerry Moran at 10:55 a.m. on April 6, 1993 in Room 514-S of the Capitol.

All members were present except: Senators Feleciano, Harris and Rock (all excused)

Committee staff present: Gordon Self, Revisor of Statutes  
Sue Krische, Committee Secretary

Conferees appearing before the committee:

Andrew Olson, Council Grove, KS

SB 404 - Notice prior to adverse possession.

Andrew Olson appeared in support of SB 404 and related his experience in a dispute on the ownership of land along a creek as a result of changes in the channel (Attachment 1). SB 404 would amend state law regarding adverse possession to require that the owner of record be notified before a claim of ownership of property is made. In response to a question, Mr. Olson stated he knew the change in the law would not remedy his situation, but felt it is needed to protect other landowners in Kansas. A statement in support of this change in the law was submitted by Mr. Fred Ruchard, Council Grove, Kansas (Attachment 2).

Approval of minutes--Senator Bond moved approval of the minutes of March 16 and 17, 1993 as written. Senator Oleen seconded. Motion carried.

The meeting was adjourned at 11:15 a.m.

Andy Olson Bought Spence place About Fall 1970  
Bridge over Four Mile put in -1975-1976

No fence on East & South of timber or land in question  
County Cut timber where new road ran thru timber  
I contacted Bill Roswurm & told him that timber  
on west of new road containing old creek channel was  
on Deed to Spence place & that I paid taxes on same.

Approximately Mid summer 1989 Savratt was loading  
Logs from my timber. I told Savratt that was my  
land & don't move Logs. I contacted Bill Roswurm  
& he went into a Franny - word of action - wouldn't  
listen to reason. I measured boundary according to  
Deed Legal description & found Old creek bed exactly  
as recorded on deed. I visited county Commissioner  
& County atty. No positive help. County Commissioners  
tried to reason with Roswurm - No sensible reaction.  
Filed suit in 1990. Roswurm didn't remove trees  
until 1992 after they had decayed. They knew they  
really didn't own Land. Roswurm hired Randy Heilman  
& Mr. Lasswell of Wichita - claiming Roswurm had always  
been using land. All false statements. A fence on East &  
South of timber in question was erected & fence on North  
& West of timber was taken out. Date 1986 or 1987.

Roswurms - Mrs Roswurm claimed they picked up Dead  
branches in timber to use starting fire in stove. Mrs Roswurm  
claimed they always ran cattle on field adjacent to  
timber every year & No fence along timber on <sup>either</sup> W  
or North side of timber. There was No fence on <sup>4-6-93</sup>  
Attachment 1

According to Mrs Roanum there was no fence on line between their field & my timber, so in reality cattle supposedly stayed in area with no fence of any kind for a space of approximately 700'. A pure untrue statement. Cattle will not stay in area with one side no fence.

My attorney David Troup would not use witness of mine to contract or prove that misstatement. Pure Lye

Signed Andrew Olson

To Whom it may concern:

The judges decision in the case of Olson vs Roswurm raises concern for all landowners on creeks in Kansas. Because of the ever changing nature of these creeks, ownership of land should not be in question. For a judge to determine ownership without regard to legal description, places a lot of land along small creeks up for grabs. This must be changed.

I have property along 4-mile creek. In five places, this creek does not follow the property lines and creates parcels that could under the present law be in question. What good is a Warranty Deed that ensure ownerships if a judge can change ownership at his discretion.

The use or non-use of land should not be the determining factor of ownership. The legal description of the Warranty Deed must be upheld.

5J  
4-6-93  
Attachment 2

Fred Quichard

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