

March 24, 1975

SENATOR CAVANAUGH: Couldn't you put something in there to prohibit that?

SENATOR LUEDTKE: Well if you could figure out what to put in there, since I don't know of any, personally I don't know of any violation or abuses in this area. The juvenile courts have been very careful to . . .

SENATOR CAVANAUGH: Well we're talking about regular district courts here. I've had some experience in outstate district courts. You can file a motion to disqualify and they say your motion to disqualify is not allowed because I'm the only judge in the district, which doesn't help you much if the judge has already sat through an evidentiary hearing without rules of evidence and he's gone into the merits of the case and decides to retain jurisdiction. You're in big trouble. It happens.

SENATOR LUEDTKE: I think you could be, but as I say I don't know of any . . . when it was brought before the committee and the Committee on Children and Youth discussed this, I think Senator Barnett will concur on this, there was no abuse actually brought to the light of the committee, brought to our attention in this area.

SENATOR CAVANAUGH: But you're writing a statute that has a big hole in it.

SENATOR LUEDTKE: I'd have to be very honest with you to say that I concede it possibly could happen. If there's any way that you concede to draft an amendment to safeguard that, I would certainly not object to that.

SENATOR CAVANAUGH: I wouldn't be prepared to vote on this bill until something is done. I think that's a big . . . would be a big problem and prejudice . . . certainly it would have great potential for prejudicing the rights of the juvenile in those cases.

PRESIDENT: Senator Barnett.

SENATOR BARNETT: Well Senator Luedtke I don't think that you answered Senator Cavanaugh's question. I don't think he's reading far enough into the amendment. It doesn't do what he's trying to lead people to believe it does, because it says in there that you're to follow criterias set up in Section 43-202.01. It doesn't speak of any evidence other than that criteria set out in that section, which is later defined in the bill. I think you can turn to page 6, where it starts. Senator Cavanaugh's question is answered. It does not refer to evidence as he is trying to explain it. It has to do, that new section, with the criteria that is set up for the transfer of the trials or the cases. It's nothing to do with the evidence. You read in there where it says that section. It shall refer to that criteria, in Section 43-202. That's what Senator Cavanaugh should be reading into that. It has nothing to do with the evidence of the case itself. It has to do with transfer of the trial. I heard you ask Senator Luedtke the question. Well, you evidently can't see what's in there or you wouldn't have asked the question.