

explained what it does and there are two things that I would like Senator Murphy to do and he can take my time, you know as much of my time that I have to do it because there is really no explanation of the amendment which in fact becomes the bill. Could you tell what this amendment does and how it differs from LB 45?

SENATOR MURPHY: This is LB 46 Senator Chambers. The Attorney General in his recommendation incorporated 45 and 46. It in a sense directs itself to the complaint that Senator Dworak had as to what happens if in fact the agency fails to act. But, in this bill it says that the Attorney General, we are restoring to the Attorney General the ultimate power of discrimination as to whether or not the law is being affected. I would have preferred that a court would have done this but in 46 he says, "I the Attorney General will decide if the agency head is not complying with the law, and if I so find then I shall at my discretion proceed." Hopefully that is far better than what we have now. It is far less than what I would have desired. I would much prefer that the court would have been able to hold this but like I say compromise is supposed to be an art of legislation that comes very hard to me, but none the less I accept it in as much as this body has indicated that they prefer not as a legislature to face the authority of the Executive Branch of government so I accept the compromise and would ask that the legislature in fact accept this. He does provide something further that I did not provide in the latter section of the bill where he says that the agency head will be held personally liable for the expense of suit if they are taken to court and fail. That would not have been my recommendation but it is his and as I say if this body is predisposed to act in the direction of the Attorney General and the Governor I feel that the only compromise that I can make is to go along with that for the moment Senator Chambers.

SENATOR CHAMBERS: Now, Senator Murphy for my clarification, and I am looking at the sheet that you handed out. I will read the language. If the Secretary of State is named as a defendant it shall be his duty to defend such action. This "he" refers to whom, the Attorney General or the Secretary of State? It shall be his duty to defend such action and support the constitutionality of the act of the legislature and for such purposes authorize to employ special counsel.

SENATOR MURPHY: Senator Chambers, Section 84 already provides that the Attorney General may, when he has a conflict designate someone as an opponent. He has been specific in this case and has said I would like to name the Secretary of State to represent the state in opposition to whatever his move may be. He may be challenging or he may be defending, but he is designating that he will be able to designate the Secretary as the opponent in this case. The Legislature, it would be nice if we the legislature could take status to bring suit on certain occasions. However, if we do so we also subject ourselves to being sued. This is a very dangerous position to assume. So, in this manner he has designated the Attorney General's office as either the opponent or the defendant and the Secretary of State's office as the opponent.

SENATOR CHAMBERS: Now, if the Secretary of State is named as defendant, do you mean that the Secretary of State is put in