

April 30, 1981

LB 466

says much the same. 466 is unconstitutional not just because of the Roe versus Wade Supreme Court decision. It is unconstitutional because of our own state Constitution that puts a limit on what we can do and says that this Legislature must have a rationale for creating a certain category or class for legislation. For that reason I rise with this motion to indefinitely postpone LB 466. I think perhaps it is time that the circle of passing unconstitutional legislation only to see the courts direct us to follow our Constitutional oath, that perhaps we break that circle and for once not pass an unconstitutional abortion bill simply because certain pressure groups are asking us to enact bad law. With that, I move to indefinitely postpone LB 466.

SPEAKER MARVEL: Senator Labeledz, and then Senator Cullan.

SENATOR LABEDZ: Thank you, Mr. Speaker. Thank you. Of course, I will oppose the kill motion and I am sure that we all realize that we just passed LB 284 which the Attorney General says was probably unconstitutional in part, and Senator Fowler did read you parts of the Attorney General's Opinion, but I have the copy here also that he just took parts of and I would like to reiterate some of the things that he said. And on page 1405 they don't say that it's definitely unconstitutional. They say a provision on is probably unconstitutional as qualified below, and at the end of the letter it says, "As discussed above, there may be an unconstitutional classification by singling out abortions from other medical procedures". And I wanted to go on further and explain why I don't think that it is or any part of it is unconstitutional, and I would also like to remind you that we have the severability clause that was already accepted a few days ago. I have several problems with the Attorney General's Opinions No. 71 and 83 regarding LB 466 as amended by myself. The Attorney General's Opinion on April 8th discussed the exemption of the physicians' offices from the Health Clinic Licensure Law. The Opinion states that "the exemption of physicians' offices from licensing under Nebraska Statute is proper only when the result of such action is not harmful to the public interests upon which the validity of the licensing statute was predicated". It follows "that withdrawal of that exemption is proper when the result of it is inimical to the public interests". It is my position and the position of others that the public interest is what this section of LB 466 will protect by removing this exemption. I have noted in earlier debate that evidence was presented in Federal District Court that the physicians at the abortion clinics in Omaha seldom,