

April 30, 1981

LB 466

this is an unconstitutional provision the way it is, and when this new Senator Labeledz amendment is added it will be even more unconstitutional, so rather than try to make it a constitutional provision, I, too, will vote against Senator Vard Johnson's amendment. I am surprised that Senator Labeledz doesn't want to have her piece of legislation be constitutional. I really expected her to accept this one without argument, but since that is not the case apparently, I will oppose Senator Johnson's amendment. Why try to make this a constitutional provision? It will cost the state anyway with other unconstitutional sections. We might just as well have them be arguing against all three sections instead of just two.

SENATOR NICHOL: Senator Koch.

SENATOR KOCH: Mr. Chairman and members of the body, it seems as though ever since I have been in this Chamber we have discussed this emotional issue and it seems that every time we do it we run flat into the face of the Constitution. Senator Schmit talked about the World War II issue which was genocide. That's considerably different than what we are talking about here today. We are really talking about constitutional law, and we all took an oath to uphold the law on our best knowledge as it relates to constitutional issues, and the cases are sufficient that we as a body should do everything we can regardless of our philosophy on this issue to make certain that the law is constitutional. But I wouldn't agree with Senator Chamber nor Senator Marsh that I will support the amendment because I want to make it more unconstitutional. That's not the proper way to deal with an issue. The proper way to deal with the issue is to reason together and make certain we try to meet the constitutional intent, at least what the courts have told us. The issue is one of integrity on our part and not to be frightened of the emotions of groups or individuals as they relate to some emotional issue. When I came to this body, I took the oath. The oath was to never go against the Constitution unknowingly and if you take enough time to read the Attorney General Opinions which we frequently have before, the issues of the Supreme Court which we have before us, the United States level, then why should we today not try, if we are serious about 466 and the subject matter, not try then to correct the deficiencies as they relate to constitutional issues? If we do not try to correct these, then we are negligent, absolutely negligent. And I know the pressures are on legislators when you run for the Legislature. The one-issue