

1989, opinion that he got from the Attorney General's Office that Mr. Mosher wrote. That opinion, and it was requested in good faith by Senator Hefner while the bill was still, I think, at that time in the Revenue Committee, states that in Mr. Mosher's opinion the legislation, LB 346, would be unconstitutional based on Article VII, Section 11 of the Nebraska Constitution. I would disagree, and I would disagree based on at least four different cases that Mr. Mosher did not mention in his opinion to Senator Hefner, four cases in which the Attorney General's Office was involved, four cases that Mr. Mosher was the attorney for the AG's Office, and four cases in which the State of Nebraska lost. They were all in favor of areas of this type, this nature with regard to what we call public aid to nonpublic schools. Each of those cases, the first one being the Lindstrom case, which dealt with the scholarship program for nonpublic institutions, was a case that the Supreme Court said in the scholarship program which involved the granting of money directly to students to use for educational expenses at eligible postsecondary institutions, including nonpublic institutions, was not violative of the literal language of Article VII, Section 11, which we determined clearly prohibited only appropriations made to a nonpublic school. The issue here is the difference, because of a change that was made in the Nebraska Constitution in 1972 by the public, it was voted on, that said the issue was not one of...that anyone opposed or disagreed with, state aid to an institution of private education. That clearly would fall outside the constitutional parameters. But just because the institution might receive indirect aid did not, in this case, in the Lindstrom issue, make that, in their words, in this respect, any benefit that may inure to the nonprofit institution is merely incidental and certainly cannot be deemed to be an appropriation to that institution. So in other words, what they said in the Lindstrom case was that you were not appropriating money to the institution. You were appropriating money to that individual student to use as they please. In the next case, the Creighton University case, the court said this, that we do not rule out the possibility that Creighton may derive any indirect benefit from a research contract with the state, but possible indirect benefit does not transform payments for contract of services into an appropriation of public funds prescribed by Article VII, Section 11 of the Nebraska Constitution. Mr. Mosher didn't mention any of those in his opinion to Senator Hefner. Then we talked about, as Senator Beck mentioned, Mueller v. Allen, which is the case that was heard...the case that was heard in the