

June 5, 1991

LB 829
LR 186

specialized in this area of personal and real property tax cases will tell you this. If the U.S. Supreme Court concludes that the equal protection clause of the U.S. Constitution applies to property tax laws, then everything we are doing to get artificially around this provision at the state level will be meaningless and will, in fact, only get us into deeper trouble. At the same time, if the U.S. Supreme Court rules that the taxation system allowed under California's Proposition 13 is constitutional even though it does clearly discriminate against different classes of property and taxation, then very probably some of the things we are terribly afraid of are, in fact, legal and we have much, much more flexibility than originally thought when we launched ourselves on this effort to completely change the Constitution. Let me explain for you the proposal in Proposition 13 which caused the filing of the case by Macys, but I will make it more simple because I do not want to use the indeterminate numbers involved in the Macy lawsuit. If Mr. A bought a house in 1970 in California for \$100,000 and Mr. B bought the identical house in 1985 for \$300,000, for purposes of taxation Mr. A will pay tax on a \$100,000 house and Mr. B will pay tax on an identical house which costs 300,000. That is a discriminatory clause of Proposition 13 in the California statute which is being challenged by Macy. Let me get to the final point. Our theory in having this special election is so that we can change our Nebraska Constitution now and be in a position legislatively in January of '92 or even sooner to write a whole package of new property tax laws which supposedly our new constitutional changes will allow. But as bluntly as I can say it, I believe we are acting prematurely. This decision of the U.S. Supreme Court to hear the California case will ultimately be the absolute guide we will have to follow when it comes to property taxation. As much as we would like to make our temporary solution a one-year solution, it is very likely that LB 829, passed this morning, will be at least a two-year program. You and I individually might personally disagree with particular elements of that bill but we will live with it for at least that period of time. We should wait for the U.S. Supreme Court decision which in effect will tell our Supreme Court and us what the real rules of property taxation for the future in this country are going to be with respect to uniformity or equal protection. I need not remind you that as recently as two or three years ago I stood on this floor as did others and said that equal protection clauses in the Constitution did not apply to tax laws. As of now, that is no longer true. And I'm afraid we're going to find that out when that decision comes down. We