

SPEAKER BAACK: Thank you, Senator Will. Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, as I listened to this discussion earlier on, particularly the questioning of Senator Lindsay with Senator Hall, I came through with the impression that they both were agreeing that the Fourteenth Amendment was going to be the controlling factor, the equal protection clause, and, obviously, we cannot violate that. Then as I am listening more, it seems maybe that isn't the argument. Now the argument maybe is that a rational classification, whatever that might be, as determined by the court, is a higher standard or more restrictive standard than the Fourteenth Amendment. Initially, my reaction was, well, what difference does it make, you know, if that has only the impact of applying to the Fourteenth Amendment, which will apply in any event, it doesn't make a difference. The record now begins to be identified as one that is to be more restrictive. I had concern in committee and asked what the word "rational" meant because I hadn't the vaguest idea what rational meant in legal terms. And I was told, well, that was a lesser standard than reasonable, and it was a standard that the court would understand as to be interpreted as something less than what they had done before as far as a State Constitution is concerned. It would seem to me that the real compelling argument and the one that persuaded me that maybe the word "rational" should not be a part was the potential for the inability for Nebraska to be able to appeal the case to the U.S. Supreme Court on the basis that the Nebraska court gave an interpretation more restrictive than what would be required by the Fourteenth Amendment as it applies to all other states, which have gone to the Supreme Court for interpretation. For just the simple reason for consistency of the equal protection clause, I became persuaded that the word should be removed, and that we rely solely on that with our State Supreme Court defining the restrictions on that, and then the state still had the ability to appeal to the U.S. Supreme Court, which I am gathering from the discussion and what I understood otherwise could be denied that opportunity because the Nebraska Supreme Court would use the word "rational" to come up with a definition other than what the equal protection clause and more restrictive and one which currently none of knew or know what that might be. Obviously, they can do that if they want to anyway, I guess, even if the word is out. There is no definitive word applied to the classification, but earlier their record was pretty clear that it was meant to be consistent with