

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

February 3, 2000 LB 729

year. But what it does do is it does set up a separate and a new cause of action that anybody who doesn't want an initiative or referendum to appear on the ballot to take by filing a lawsuit in Lancaster County District Court. And when you look at that, what the lawsuit would do, it would ask for an injunction, it would ask that an order be entered enjoining the Secretary of State from actually putting the initiative or referendum issue on the ballot. And right there I think I do have some fairly serious problems with that, because in reading the rest of the amendment there is no, I guess there is no adequate protection that I could glean for the actual petitioner or for the person who wants to put the referendum on the ballot. In a normal civil lawsuit, if you go into court and you ask for an injunction, it's usually, most always required that a bond be posted to protect the person who may be injured. And what we're talking about here, with initiative and referendum, is a right that's guaranteed by the Constitution of the state of Nebraska. So the injury, potentially, could be very great. And so if this initiative or if this amendment actually does pass, I guess I would probably prepare some kind of an amendment to it, to require that a suitable bond be posted with the court that in the event that a mistake is made, that is wrongfully enjoined, that is kept off the ballot, that the petitioners are adequately protected for a violation of their constitutional right. Now violation of a constitutional right, as we probably all could surmise, could be de minimis, or it could be enormous, it could run into the millions of dollars. And so the bond amount that actually would have to be posted to make this amendment feasible could be enormous. And so, I guess I would be interested to hear some of the other conversations and some of the discussions going on right now. But the main problem that, I guess, just to sum up, that I would have with this amendment is I don't think it provides enough protection for the actual people, for the people going out, getting the signatures, asking for the initiative, or asking for the referendum. It doesn't provide any protection for them. So I guess the question I would have is, what's in it for them? What's...how are they to be protected by this new cause of action? And with that, I would yield the rest of the time back to the Chair.

SENATOR CROSBY: Thank you, Senator Quandahl. Senator Schimek, on the amendment.