

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

April 12, 2006 LR 449

defining misdemeanors of office or its equivalent, misconduct in office. The most common, if not overwhelmingly applied, definition requires some act of official misconduct, some grave official wrong. In contrast, the Massachusetts definition appears to require simply any act of an officer while holding his office that can be said reasonably to render him unfit to continue to hold office. Which view will the Nebraska Supreme Court adopt? And then he's quoting the State v. Douglas. It is fairly...or his opinion on that. It is fairly evident the Supreme Court requires some sort of official misconduct to constitute a misdemeanor in office, and does not construe that term with the same breadth as Massachusetts. In Douglas, the court stated misdemeanor in office means that the act of omission for which an officer may be impeached and removed from office must relate to the duties of office. I think if you look through this report, you'll find more interesting things that give us an opinion on what our duty is. This was an attorney that I believe gave an opinion. My impression is that opinion, because it didn't reflect some of the wishes of certain members, then we seemed to move ahead. I would like to clarify that I do not know Regent Hergert.

SENATOR CUDABACK: One minute.

SENATOR FISCHER: And I did not vote for Regent Hergert in the election. I did not approve of his campaign tactics. But that doesn't enter into this conversation and the decisions that we make here today. We need to be responsible in our duty and consider the reports that we've been given. Accountability and Disclosure Commission, I've had some of my constituents say to me, they're in statute, they did their job, and you guys don't agree with what they did and so now you're going to do what you want. Is that what we're doing here? I hope not.

SENATOR CUDABACK: Thank you, Senator Fischer. Senator Erdman, followed by Senator Schrock.

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. It's been so long since my last opportunity to speak. I ended on something I was going to say about Senator Chambers and I have forgotten and I won't disclose the