

January 4, 1990

LB 881-957, 997-1010
LR 229

If I may, Mr. President, I have a Reference Report referring LBs 881-957, and LR 229. (See pages 175-77 of the Legislative Journal.) And, Mr. President, new bills. (Read LBs 997-1010 by title for the first time. See pages 177-80 of the Legislative Journal.) Mr. President, that's all that I have at this time.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. Proceeding to the next item on...from the Rules Committee. Chairman Lynch.

SENATOR LYNCH: Mr. President, members, the next one is number nine identified on your list. It specifies that a motion to suspend the rules is not divisible. The reason for this, without reading it all but putting it hopefully in laymen's terms so we can understand it, is that when a motion to suspend the rules is attempted it's intended to accomplish only one thing. You don't suspend the rules to accomplish three, four, five or six different things. But, if the amendment that would accomplish one thing would, for example, suspend Rule 1, Section 2, Rule 2, Section 3, Rule 3, Section 4, because it's necessary to do that to identify those sections of the rules that serve that single purpose, you cannot divide the question and take any one of those three rule changes independently. I think, Mr. President and members, that explains the purpose and intent of this rule change and would suggest that we support it.

SPEAKER BARRETT: Thank you, Senator Lynch. Discussion on the proposal...proposed change number nine? Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, let me tell you what the real purpose of this rule change is. There have been attempts at various times to suspend the rules so that there can be no debate or discussion or amendment on bills, and I have indicated that I would divide that question. So the purpose of the rule is to prevent that from happening. So however many things are put into a rule suspension will have to be taken as a package. In some instances you may have a situation where people will think and believe that you should be able to suspend the rules for the purpose of taking a vote without any additional debate, amendment and so forth. And maybe that is all right. Naturally, I'm opposed to it because

January 8, 1990

LB 409, 958-1013, 1031, 1032
LR 235

SPEAKER BARRETT: Let's stand at ease until eleven-fifteen, Mr. President.

PRESIDENT: Okay, thank you.

EASE

CLERK: Three quick announcements. Reference will meet underneath the south balcony now. Referencing Committee, underneath the south balcony right now.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: (Microphone not activated immediately.) ...return to the Legislative Chamber. The Legislature will reconvene and continue our discussion on the adoption of our permanent rules. Please return to the Legislative Chamber. Mr. Clerk, would you read in new bills, please.

CLERK: (Read LB 1031 and LB 1032 by title for the first time. See pages 198-99 of the Legislative Journal.)

Mr. President, in addition to those items, I have a new resolution. (Read brief summary of LR 235. See page 199 of the Journal.) That will be laid over.

I have amendments from Speaker Barrett to be printed to LE 409. Mr. President, I also have a Reference Report referring LBs 958-1013, as well as certain gubernatorial appointments received. That's all that I have, Mr. President. (See pages 199-201 of the Legislative Journal.)

SPEAKER BARRETT: Thank you, Mr. Clerk. Have you a motion, Mr. Clerk, to reconsider action taken last week?

CLERK: Mr. President, Senator Chambers would move to reconsider the vote on the Wesely amendment to the rules, which I believe the Legislature discussed on Thursday afternoon.

SPEAKER BARRETT: Thank you. The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, this motion is designed to reconsider the vote that was taken on

January 11, 1990

LB 874, 893, 970, 1009, 1102-1111
LR 8, 233

chance for justice in these courts, a perfect poor man's chance, which means no chance. We see that even with the present system. There are inequities and unfairnesses in the way the courts operate. We are going to build in an additional level that encourages unfairness and arbitrariness by the State Supreme Court. I am opposed to this bill. I think what would have been responsible would be to have public hearings...

SENATOR LABEDZ: Time is up, Senator Chambers. Senator Abboud. Mr. Clerk, do you have something to read in?

CLERK: Yes, Madam President, I do, new bills. (Read for the first time by title: LB 1102, LB 1103, LB 1104, LB 1105, LB 1106, LB 1107, LB 1108, LB 1109, LB 1110, LB 1111. See pages 279-82 of the Legislative Journal.)

Mr. President, I have notice of hearing from the Government Committee. That is signed by Senator Baack as Chair of the committee. (Re: LB 970, LB 1009, LB 893, LB 874, LR 233CA. See page 281 of the Legislative Journal.) That is all that I have, Madam President, at this time.

SENATOR LABEDZ: Thank you, Mr. Clerk. Senator Abboud. Senator Landis.

SENATOR LANDIS: Madam Speaker, members of the Legislature, if you could imagine a process by which we, as legislators, were asked not just to rule on the bills that we introduce but on every idea given to us by our constituents and every idea given to us at the behest of the citizens of the State of Nebraska, you'd approximate the situation that the Supreme Court finds itself in. Their work load is not of their own making. We, as the legislative branch make our own work load collectively by being able to say yes or no to the ideas our constituents bring to us. Every now and then we say, okay, fine, I will draft it and we'll introduce it. My guess is for everyone of those, you have got two or three bills that are suggested to you that you say I don't think it will work or I would rather not carry that. Best of luck, maybe you have got another avenue, but, in fact, we can't take that...I am not going to take that problem on. Maybe we don't do it enough but we do it. But imagine a Legislature in which any person in the State of Nebraska could provide us a bill idea that we would have to draft into bill form, hold a public hearing on, have a debate on this floor, and then write our decisions as a body, not just our own individual

PRESIDENT NICHOL PRESIDING

PRESIDENT: (Mike not activated.) ...George W. Norris Legislative Chamber. We have with us this morning as our Chaplain of the day, Pastor Steve Fenton of the Garden View Assembly of God in Lincoln. Would you please rise for the invocation.

PASTOR FENTON: (Prayer offered.)

PRESIDENT: Thank you, Pastor Fenton. We appreciate your being here this morning. Thank you. Roll call, please.

CLERK: I have a quorum present, Mr. President.

PRESIDENT: Any corrections to the Journal this morning?

CLERK: I have no corrections, Mr. President.

PRESIDENT: Any messages, reports or announcements?

CLERK: Mr. President, your Committee on Government, Military and Veterans Affairs whose Chair is Senator Baack to whom was referred LB 1009 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with committee amendments attached. That is signed by Senator Baack as Chair. Senator Hartnett as Chair of Urban Affairs gives notice of hearing, Mr. President for Tuesday, January 30, Tuesday, February 6 and February 13. That is signed by Senator Hartnett. And Senator Withem has amendments to be printed to LB 610, Mr. President. And I have reports from the Lower Loup Natural Resources District regarding payment of attorney fees. That is filed pursuant to statute. I have an interim study report filed by the Retirement Systems Committee, signed by Senator Haberman as Chair. And Senator Weirbein has selected LB 269 as his priority bill, Mr. President. (See pages 463-66 of the Legislative Journal.) That's all that I have.

PRESIDENT: (Gavel.) If I could have your attention for just a moment, please. Senator Landis has some guests in the south balcony. We have 26 students and sponsors from the Fairview Christian School, grades 7 through 12 in Lincoln, Nebraska. Would you folks in the south balcony please stand so we may recognize you. Thank you for visiting us today. Move on to

February 20, 1990

LB 39, 290, 339, 618, 688, 771, 899
900, 941, 980A, 982, 990, 1009, 1032
1041, 1066, 1073, 1080, 1173, 1195, 1195A
1200, 1219, 1236, 1240
LR 257

SPEAKER BARRETT: Any discussion? If not, shall the committee amendments be adopted? All in favor vote aye, opposed nay. Record, please.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SPEAKER BARRETT: The committee amendments are adopted. To the bill as amended. Senator Lindsay.

SENATOR LINDSAY: Mr. President, I think the bill, as explained, as I mentioned, the amendment became the bill, and that is what we're dealing with now. I think I've explained that, some of the other senators, I think, have also discussed that. What I'd do is just be available to answer questions.

SPEAKER BARRETT: Any discussion? Any questions? If not, those in favor of the advancement of the bill to E & R initial please vote aye, opposed nay. Have you all voted? Please record, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB 688.

SPEAKER BARRETT: LB 688 is advanced. Matters for the record, please.

CLERK: Mr. President, the Speaker announces selection of Speaker priority bills that include LB 39, LB 290, LB 339, LB 618, LB 771, LB 899, LB 900, LB 941, LB 982, LB 1009, LB 1032, LB 1041, LB 1066, LB 1073, LB 1173, LB 1195, LB 1200, LB 1219, LB 1236, and LB 1240.

Mr. President, new A bills, (Read LB 980A and LB 1195A by title for the first time. See page 867 of the Legislative Journal.)

A reminder, Mr. President, the Urban Affairs Committee will meet in Exec Session at three o'clock this afternoon. Revenue Committee will hold an Exec Session at one-twenty in the Senate Lounge; Revenue, one-twenty in the Senate Lounge, Mr. President. Senator Haberman has amend...or would like to add his name to LB 1080 and to LB 990 as co-introducer.

Mr. President, new resolution offered by Senator Chambers. (Read brief synopsis of LR 257. See pages 867-68 of the

cost only for the use of that equipment. With that, I would ask for the support on the bill. Thank you.

SPEAKER BARRETT: Thank you. You've heard the closing. The question is the advancement of LB 1236 to E & R initial. All in favor vote aye, opposed nay. Voting on the advancement of the bill. Record, please.

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB 1236.

SPEAKER BARRETT: LB 1236 advances. Before proceeding to 1009, I'd like to announce that, time permitting, I'd like to go directly into LB 1172, Government Committee priority bill, to be followed by LB 1039, a priority bill of the Retirement Committee. Time permitting, 1172 and 1039. Mr. Clerk, LB 1009.

CLERK: Mr. President, 1009, offered by Senator Moore. (Read title.) The bill was introduced on January 4, referred to the Government Committee for public hearing. The bill was advanced to General File. I have committee amendments pending by the Government, Military and Veterans Affairs Committee, Mr. President. (Standing Committee amendments appear on page 463 of the Legislative Journal.)

SPEAKER BARRETT: The Chair recognizes Senator Baack.

SENATOR BAACK: Mr. Speaker and colleagues, the committee amendment is very simple. All it does...the bill, in itself, called for an appropriation of \$70,000, I think. The committee felt that instead of having the appropriation in the bill, that Senator Moore should have an A bill that would accompany 1009, so we simply struck out the appropriation that was in the bill. And that's all that the committee amendment does. Thank you.

SPEAKER BARRETT: Discussion on the committee amendments? Any questions? If not, those in favor of the adoption of the committee amendments, please vote aye, opposed nay. Voting on the adoption of the committee amendments to LB 1009. Please record.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of the committee amendments.

SPEAKER BARRETT: The committee amendments are adopted. To the bill as amended. Senator Moore.

SENATOR MOORE: Yes, Mr. Speaker and members. This is LB 1009, and there will be an A bill following LB 1009 dealing with appropriations measures and the money involved in this bill. We're talking about a total of \$220,000 over the next two years to plan our birthday party for the State of Nebraska, the 125th anniversary of the State of Nebraska. If you want to take out the bill, those of you that are interested, this is the first bill, we believe, in 25 years that has a picture in it. The picture is the new...maybe it would be easier if we had pictures in all the bills, it would be easier to explain some things. But this seal is the seal for the 125th anniversary for the state. The last time that was done, to our knowledge at least, was in...25 years ago when we created the Centennial Commission. But this 125th Anniversary Commission shall consist of 12 members to be appointed by the Governor within 60 days of the effective date of this act. And this commission shall include members from all regions of the state, representing all major interests, and not more than six of such members shall come from one political party. So we have some nice bipartisan preparation for our 125th birthday party in the State of Nebraska. It sets out the commission, sets out what it should do. And the bill, itself, sets out the seal and some penalties for those that use the seal as they should not. But this seal came from a group of people across...throughout the State of Nebraska, the actual title of the group is escaping me, but a group of people that have worked on preparing this bill. They are a process underway. This bill and the accompanying A bill will enable the Department of Economic Development to work with this commission to begin preparation for our 125th anniversary. And, with that, I'll answer any questions anyone may have.

SPEAKER BARRETT: Thank you. Mr. Clerk.

CLERK: Mr. President, Senator Hall would move to amend the bill. (Hall amendment appears on page 932 of the Legislative Journal.)

SPEAKER BARRETT: Chair recognizes Senator Hall.

SENATOR HALL: Thank you, Mr. President, members. I apologize to Senator Moore. I didn't think we were going to get to this

bill today, so the amendment is not one that is printed. But, as Senator Moore pointed out, it's a short bill that even has pictures. So it will be easy to follow what the amendment does. The amendment would provide that it would strike the reference to the commission employing personnel and contracting for services. And I've offered the corresponding amendment to LB 1009A. It would just simply, on page 2, lines 21 and 22, it would just strike "employ personnel, contract for services, and", so that that paragraph would read, "The commission may receive and expend gifts and donations to aid in carrying out its duties." If Senator Moore can offer, I guess, a response, and I'll give him the balance of my time, why the commission would need to employ personnel, especially in its first year, I guess, start up, when reference is made, and I think rightly so, to working with the Department of Economic Development and Tourism Bureau, I would withdraw the amendment. But I just...I offer it to just talk about this issue and see if there is any support for it and what the justification for it is, in his mind, through the introduction of the bill. With that, Mr. Speaker, I would yield the balance of my time to Senator Moore.

SPEAKER BARRETT: Senator Moore.

SENATOR MOORE: Yes, Senator Hall. Your amendment strikes lines 21 and 22 on page 2?

SENATOR HALL: (Mike not activated immediately.) ...the amendment would strike the language in lines 21 and 22 so that it would read, "The commission may receive and expend gifts and donations to aid in carrying out its duties." So it would strike, on line 21, beginning with "employ personnel", it would strike "employ personnel, contract for services, and", that would be stricken from the bill. And I...you know, I offer it for discussion. I am real interested in why we need to employ....

SENATOR MOORE: Okay, to begin with, it is our intent that this commission will, indeed, go out and solicit and receive funds from private donors across the state. So, originally, we were going to put a cash fund in there. We do not need to do that. It's going to be separate from the DED, but this commission will be able to receive those monies. Now, the reason they need to be able to employ personnel and contract for services is that the commission...what this \$100,000, I guess what...your

question is, what's \$100,000 going to buy? And it's going to buy one staff person who actually will work for the commission, to be housed in the Department of Economic Development, under a separate program number, which the A bill does, so we can keep track of that. What \$100,000 does is one staff person, fringe benefits, committee travel expenses, operations, computer, rent, phone and postage, those things that will be housed in the Department of Economic Development, supplies and print, and that's what the money is going to be used for is those type of things. As I said, the amendment to the A bill sets this up as a separate program number with the Department of Economic Development, and so if your concern is that we need this \$100,000 to go for something else, we can keep track of that. On the other hand, if we do not appropriate the money, and there is no money in that program, then, obviously, the Department of Economic development cannot do these things, as such, outlined. So that's what the attempt is to do.

SENATOR HALL: Okay. Senator Moore, I...and clearly understand, my amendment only deals with the aspect of the personnel, the operations with regard to the services, the expenses for those members of the commission. And even the amendment that I offer to the A bill only references temporary and permanent salaries. So I do not touch any of the monies, so to speak,...

SPEAKER BARRETT: One minute.

SENATOR HALL: ...the \$100,000 that you talk about is not, in any way, touched, that would still be available, I think, according to the way I offered the amendment. But I am under the impression that this is something that would, in my mind, fall under the Department of Economic Development's job description, so to speak, and I guess I'm just wondering if there isn't someone over there who could currently provide that service. If not, if this is going to be a newly created full-time position, I guess I just want to make sure that it's brought to the attention of the body that that's part of the bill, and I will, since I'm out of time, I will let you respond to that during your own time. Thank you.

SPEAKER BARRETT: Thank you. Further discussion? Senator Chambers. Thank you. Senator Moore.

SENATOR MOORE: I rise to oppose Senator Hall's amendment. Senator Hall, he makes a good point, a point that I have often

made on this floor about why do you keep appropriating new money and new people, it should have been a priority. Well, the fact of the matter is that we are basically talking about the Travel and Tourism Division of the Department of Economic Development. To my knowledge, there are three staff people in that division right now. And we are constantly under the gun in this state for having a severely underfunded Travel and Tourism Division. And it is not my intent, by the passage of this bill, to further complicate, further create problems for that division that is already underfunded. For that reason, since this is a special situation of the 125th anniversary, I believe that it is worthwhile to appropriate money for that, and I think it is clear and the reason we have a separate program set up is so we can track the money in the Department of Economic Development. And, yes, I think it's worthwhile to hire one more person to plan this event over the next two years.

SPEAKER BARRETT: Senator Hall, please.

SENATOR HALL: Senator Moore, would you yield to a question?

SPEAKER BARRETT: Senator Moore.

SENATOR HALL: Senator Moore, it's your understanding that the commission would be the employer for this...for these positions? Is that correct?

SENATOR MOORE: Actually, the commission set up would be the actual employer, and it would be housed in a separate...it would be housed in the Department of Economic Development.

SENATOR HALL: Okay. And Travel and Tourism is part of DED?

SENATOR MOORE: Yes.

SENATOR HALL: Okay. How many employees does the Department of Economic Development have?

SENATOR MOORE: I can't answer that off the top of my head. I could find that out for you, and would be glad to do such.

SENATOR HALL: Okay, okay. I can't argue with your comments on travel and tourism in terms of underfunding aspects. But I think they've done an outstanding job, and DED, I know, puts out a fabulous piece of propaganda, I mean, they just do a nice job

in terms of the brochure that they put out on a monthly basis, I think it is, or bimonthly. I just question whether or not the need is there for employment of individuals, especially beginning in...you know, the bill has an E clause on it. It's a thing that will take effect, the commission is to be appointed by the Governor within 60 days from the passage of the bill or the enactment of the bill into law. I don't know that getting started up, if there isn't those individuals who could very likely begin this work over in the department of DED, maybe someone could take it on on a part-time basis, whether or not these funds need to be expended, I don't know. I just question whether we do that, normally have a commission hire employees and expend state funds, probably very likely that it's happened in the past. But, with that, I bring the issue to the body and I would respectfully withdraw the amendment at this point in time, because, clearly, I think it is a legitimate concern. I understand Senator Moore's need to pass more bills with pictures in them. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. It is withdrawn. Mr. Clerk, amendment on the desk.

CLERK: Mr. President, Senator Wesely would move to amend the bill by amending the graphics.

SPEAKER BARRETT: Before recognizing Senator Wesely, let the record indicate that Senator Ashford had his Student Advisory Committee in the north balcony a few minutes ago, a group of students from the Omaha area. Senator Wesely, please, on your amendment.

SENATOR WESELY: Thank you, Mr. Speaker, members. This is all in good humor, to some degree. I would want to draw a happy face inside the moon that is currently in the seal that is proposed under this legislation, show how happy we are at the 125th birthday of Nebraska. All I'm trying to say is Senator Moore talked about pictures would make bills easier to understand. They also make it harder to amend. I've never seen, as he indicated, a graphic inside a piece of legislation. And, although it looks fine, it does raise some question about how we...if we did not approve of the graphic, how we would adjust it and, secondly, what it really means to have the graphic actually in the legislation. What sort of impact that has, I'm not sure, and I'm a little uncertain about what it's implications are. Does this mean that no color can be added to

it, no adjustment to it, no...how is it...I don't know. I just find it unusual to have a graphic inside there. I'm sort of teasing Senator Moore. But pictures are nice, but they are also a hard way to deal with legislation. So, with that, I'd move to withdraw my amendment.

SPEAKER BARRETT: Thank you. It is withdrawn. Mr. Clerk.

CLERK: Mr. President, Senator Chambers would move to amend the bill. (Chambers amendment is on page 932 of the Legislative Journal.)

SPEAKER BARRETT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I'm not going to withdraw my amendment because mine is serious. I'm moving to strike Section 4, which says, "It shall be a Class III misdemeanor for any person to knowingly use, reproduce or simulate the seal provided for in Section 3 of this act without a permit"; then, number two, "knowingly to sell, circulate or distribute any matter bearing such seal or reproduction or simulation". As soon as this bill is passed, if somebody passed a copy of this bill around, they've committed a Class III misdemeanor. The bill itself, circulation of the bill itself becomes a crime. I don't know the significance of a 125th anniversary either. If this is something to be done, I don't think it ought to be done by the state. Sometimes centennial, bicentennial celebrations might be justifiable. But to have 200...what, \$220,000 spent, I'd like to tell my young colleague, Senator Moore, that a picture may be worth 10,000 words, but this one is not worth \$220,000. (Laughter.) If you analyze it, in the left-hand corner, well, kind of in the middle toward the left you see a poorly drawn coyote, baying at the moon. I don't know the significance of that. Then you have a wagon down here with a guy, looks like he's kidnapping a little boy. Then in the very lower left corner you have a caterpillar crawling, then there's a picture of four turkeys. I don't know what in the world is supposed to be signified by this drawing. But I think it's a mistake to say that to circulate something like this is a crime. The crime perhaps should consist in having drawn something like this in the first place. But the reality is that as soon as this bill is passed, if it's passed and I think it should not be passed, as soon as it is passed, it's a crime to circulate the bill. Read this lang....Senator Moore, let me ask you a question before I get too exercised

here. Senator Moore, who drew this? Who drew this picture? Do you know?

SENATOR MOORE: I can't remember the person's name. It was...the Nebraska Events Commission solicited some various drawings, this is the one they selected as the winner and the one they chose they wanted.

SENATOR CHAMBERS: And then they cut and pasted a number of things together and got this so that everybody would feel accommodated, more or less?

SENATOR MOORE: I can't tell you. I don't think they cut it and pasted it. Whoever the person was, if I remember correctly, it was someone from Columbus, and I could be incorrect there, that actually did this one. They may have tried to include everybody, yes, but I don't think it was a cut and paste job.

SENATOR CHAMBERS: Okay, what is the purpose of that coyote baying at the moon?

SENATOR MOORE: Well, I'm looking for the coyote, Senator Chambers. I can't see the coyote.

SENATOR CHAMBERS: See him sitting on his haunches with his head sticking straight up in the air with his mouth open?

SENATOR MOORE: That's Chimney Rock.

SENATOR CHAMBERS: Oh, see, art is in the eye of the beholder. (Laughter.)

SENATOR MOORE: That's true.

SENATOR CHAMBERS: All right, now what about these turkeys down here? Tell me those are not turkeys.

SENATOR MOORE: Those are not turkeys, those are Sandhill cranes.

SENATOR CHAMBERS: I'm getting educated here. Well, now I know that some people have suggested that certain caterpillars be used to eat cocoa plants in Columbia, but what significance do caterpillars have to Nebraska's 125th anniversary? See that one crawling...

SENATOR MOORE: Caterpillar? Is the caterpillar that ear of corn you're talking about? You need to come to my farm, Senator Chambers. Is that the caterpillar?

SENATOR CHAMBERS: Well, if you say it's corn, then it's corn, but, to me, it's a caterpillar.

SENATOR MOORE: Oh, okay.

SENATOR CHAMBERS: We see these things entirely differently. Then I see a picture of Monticello sitting right in the center of the picture, where it would be...where the bull's-eye would be, were this a target. I see a polluted stream, over on the right-hand side. Then I see what looks like the larvae of some creature on the right-hand side, down at the bottom, coming out of the date. Maybe they should make it a crime to circulate this thing, and the only person who is exempt is one who knowingly and willingly purchases a permit and will thereby tell the world, I know what it is that I'm putting out, and I've got permission to do this. But, Senator Moore, why should it be a crime to circulate a piece of legislation after it's enacted? Why should that be?

SENATOR MOORE: Well, as to...you want to know why it's there, or why it should be a crime? Why it should be a crime is you want to have some control over who has the rights to this, theoretically.

SENATOR CHAMBERS: But do you...

SENATOR MOORE: Now why is...

SENATOR CHAMBERS: Go Ahead.

SENATOR MOORE: Why is it this way? This language was taken from the bill 25 years ago is why it's in there. I, particularly as I sit here and discuss this with you, if you prefer to have it out, I can't give you a good reason why it should not stay in there, and I'm willing to take it out for the time being until between now and Select File we can get a better reason why it should stay in there.

SENATOR CHAMBERS: But here's what I'm asking why it would be put in in the first place, they drew...they put a rendering of

the seal, then they made it a crime to circulate a simulation or a reproduction of that seal. The bill, itself, is a simulation or reproduction of the seal. So when this bill is enacted, if anybody takes a copy...I see you're getting advice from your chief counsel. As soon as this bill is passed, if it is, and I think it has the emergency clause, when this bill is enacted, if any member of the Legislature or any citizen took a copy of this bill, which is available, and passed it around, they're guilty of a Class III misdemeanor. Does that make sense to you? You're trying to get people to go along with the 125th anniversary, and you make them criminals for circulating the legislation that created the observation.

SENATOR MOORE: My attempt to get to them with the language is obviously someone that does not seek permit, tries to seek financial gain from this, some unscrupulous type of person that wouldn't go through the proper channels, sell souvenirs and stuff like that without a permit; maybe there is someone that uses this and uses it in what someone would consider an unfashionable way, have some control over how it is used.

SENATOR CHAMBERS: What difference would it make if somebody does that? How is the state hurt? How are the citizens hurt, if somebody thought enough of this drawing to circulate it?

SENATOR MOORE: To circulate it just as it is? No harm is done by that, no.

SENATOR CHAMBERS: But that's a crime, under this bill.

SENATOR MOORE: Well, circulate it for profit? Just to circulate it, as it is, is not a crime. If someone wanted to print up 1.6 million copies of the bill and pass it out to people, that, in itself, would not be a crime.

SENATOR CHAMBERS: It says, in Section 4, which I'm trying to strike, "It shall be a Class III misdemeanor", then coming to line 6, "knowingly sell, circulate or distribute any matter bearing such seal or a reproduction or simulation of the seal without a permit". So that means if I purchase an ashtray which is approved by the people who are hustling this thing, and it has a copy of this permit of this seal, I cannot give anybody that ashtray, unless I, in turn, purchase a permit. Criminal statutes must be carefully drawn. They must be drawn so that person knows what conduct is prohibited and what conduct is

allowable. What they are saying by this language is that if anybody has in his or her possession a rendering of this thing without a permit and transfers it to somebody, they've committed a crime. Suppose you have a permit, Senator Moore, to put this thing on fans, the little hand fans that you fan yourself with, and you sell 1,000 of them, then I buy 500 of those fans, and I decide to circulate them in the schools, and I don't have a permit, I'm circulating this thing without a permit and I'm committing a Class III misdemeanor. That doesn't make sense. This whole thing doesn't make sense. A 125th anniversary doesn't make sense. There is no significance to it. And we're going to spend \$220,000 of taxpayers' money so that they have the opportunity to become unwitting criminals. My motion is to strike Section 4. Then if you all want to proceed with it,...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...then I can't stop that because it takes 25 votes to do something, and I'm sure there probably will be 25 votes to do something with this bill, that will probably be to advance it, then to appropriate that money. And, to me, it just does not make sense, but my amendment does. At least take away the language that would make it a crime to circulate a copy of this bill after it is passed.

SPEAKER BARRETT: Thank you. Before proceeding to discussion on the Chambers amendment, the Chair is pleased to note that Senator Robak has some guests in the north balcony. We have 20 eighth graders from District 24 in Platte Center, with their teachers. Would you folks please stand and be recognized. Thank you, we're pleased to have you with us. Also, in our south balcony Senator Labedz has 30 members of Christie Heights Senior Center in Omaha, with their leader. Welcome, ladies, to your Legislature. Welcome, we're glad to have you. Senator Lowell Johnson, did you care to discuss the Chambers amendment?

SENATOR L. JOHNSON: No, on the bill.

SPEAKER BARRETT: Thank you. Senator Pirsch, on the Chambers amendment.

SENATOR PIRSCH: Yes, thank you, Mr. Speaker, and members of the Legislature, after all some of the nonsense, I'm not sure that I should stand up and surprise everybody by supporting Senator Chambers in this amendment. I feel that this seal, if we're

truly going to celebrate as a state, that all the people should have access to the seal that represents our 125th. And I really don't understand why it would be a misdemeanor to circulate, or use, or reproduce. Senator Moore, I have a question for you, if you would yield.

SPEAKER BARRETT: Senator Moore, please.

SENATOR MOORE: Yes.

SENATOR PIRSCH: Senator Moore, is it a crime to use, reproduce, simulate, sell, circulate or distribute the state seal of the State of Nebraska?

SENATOR MOORE: I do not know the answer to that, Senator Pirsch.

SENATOR PIRSCH: I doubt that it is. Many of our entrepreneurs use that seal on many, various things that they sell to the public, and they give us pleasure to wear as pins or flags and take pride in our state, and I guess I don't quite understand why the seal for the 125th anniversary should be any different. With that, I will support Senator Chambers' amendment.

SPEAKER BARRETT: Senator Moore.

SENATOR MOORE: Mr. Speaker and member, I apologize that I'm caught a little off guard with this particular thing, and that's my own fault. But the fact of the matter is, Senator Chambers may indeed raise a valid concern. But instead of adopting Senator Chambers' amendment, I think Senator Smith filed an amendment that adds in the words "for profit" that would take care of part of the problem that Senator Chambers raised. So, for lack...as I said, the reason this language was in there, not necessarily a good one, but I just simply took the bill from the 100th...the centennial and changed the figures and the dates and the seal and made it the 125th anniversary. Now, I would urge the body to oppose Senator Chambers' amendment. I would urge the body in turn to support Senator Smith's amendment "for profit", and I would more than welcome the opportunity to further inspect the need for this particular Section 4. And, with that, I urge the defeat of Senator Chambers' amendment.

SPEAKER BARRETT: Senator Smith, please, on the amendment.

SENATOR SMITH: Thank you, Mr. Speaker. I stand to oppose Senator Chambers' amendment. Although, Senator Chambers, you have brought up a valid point, I think, on one hand, because I can tell you that I'm old and I can remember the 100th anniversary of Nebraska, and I was very actively involved in that. Being a person that likes to draw, I did a lot of that for people and as a part of being a school teacher at that time, and never had any problems, by the way, Ernie. No one ever, you know...I was never imprisoned or fined or anything like that because of that. But I think that for those people we want to make sure that that is possible for them to do that. And, so, for that reason, I will probably oppose your amendment, because I do believe that maybe we have something legitimate here as far as the concerns of the state are. But I will introduce, and have already placed up there the amendment to insert the words "for profit". And so I'm going to oppose your amendment, but I hope that you will help support mine then. Thank you.

PRESIDENT NICHOL PRESIDING

PRESIDENT: Senator Goodrich, please. Don't go away.

SENATOR GOODRICH: Hello. Okay. Mr. President, members of the body, I just rise to caution you. I think, for example, Senator Smith has got the solution to the problem, if you put the words "for profit" in there. But if, for example, you are starting a centennial type of thing like this event and you do not protect it in any way, shape or form, all of the people that will be the high binders, so to speak, that will hit this state and they will try their darndest to legitimize themselves by use of this seal, we wind up with everybody assuming the seal is on there, it must be a legitimate operation, therefore we can go ahead and buy whatever it is they're promoting. And, for that reason, I'm just suggesting that there ought to be some kind of control over who can use the seal, if it's for a profit venture. Now, other than that, I just want to...I think, frankly, that the adding of the words "for profit", like Senator Smith is suggesting, I think that will solve the problem. But I would suggest to you that maybe you didn't even want to do that until you get it on Select File. Just don't do anything, either the Senator Chambers amendment or the Senator Smith amendment until it gets on Select File and you can check to see what you're doing, the net effect of what you're doing, but at least adopt the Senator Smith amendment to the Senator Chambers amendment before we put it on. Thank you.

PRESIDENT: Thank you. Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, who in the world could honestly think that, merely because you have something like this on a product, people are going to purchase it, if they weren't going to purchase it anyway. The conversation I hear is of the sort that would make you think that all you have to do is put this seal on something and it's going to be a big money-making, going concern. If there is that much demand for it, the state shouldn't mind cutting in some enterprising entrepreneurs who can only advertise what it is you're trying to do with this bill. I have trouble taking it seriously, and maybe because I don't see that much which is significant about a 125th anniversary of the State of Nebraska. Every 100 years is about as much as some people can take. (Laughter.) Nothing has happened...I didn't mean that to sound like it sounded. But nothing has happened since the last celebration to justify this one. But as far as what Senator Goodrich is talking about, that is nonsense. Scams, people are just waiting in the bushes for this thing to be adopted by the Legislature so they can start putting it on the sides of automobiles, houses, trailers, recreational vehicles, so that people will buy that which ordinarily they wouldn't buy. And then you're going to make it a crime. This is a criminal statute. This typifies sometimes what we find to be the attitude of the Legislature, that when you deal with something in the context of criminalizing conduct of citizens the Legislature can grasp that. If this is supposed to be something to commemorate the state, honor it, make people feel good about it, why do it by way of a criminal statute? And that's what this is, a crime to celebrate this 125th anniversary. And, if you made it just bluntly like that, I'd probably agree with it, but \$220,000 of taxpayers' money to put those taxpayers in a position to become criminals. That doesn't make sense. And, personally, I'd just as soon you don't adopt my amendment and let the thing go like those who brought it to us wanted it to be, but I've made clear my position on it. All these little things...Senator Moore, may I ask you another question?

PRESIDENT: Senator Moore, please.

SENATOR MOORE: Yes.

SENATOR CHAMBERS: Who actually selected this depiction of these

various items to be the seal for the 125th anniversary of the state? Do you know who actually did that?

SENATOR MOORE: The Nebraska Events Commission.

SENATOR CHAMBERS: And who are they?

SENATOR MOORE: A private group.

SENATOR CHAMBERS: Do you know...

SENATOR MOORE: I don't know the membership off the top of my head. Obviously, the reason i'm involved in this is a particular constituent of mine, who brought it to me, is on that commission.

SENATOR CHAMBERS: Do you agree that there can be no arguing of tastes, that if a person sees something as being good then it's good to them?

SENATOR MOORE: Yes, I agree with that.

SENATOR CHAMBERS: In your opinion, is this good art work? Is this creative? Does this elevate your spir...you look at this and you were downhearted, then when you look at this you really...you get uplifted?

SENATOR MOORE: To me, it's much better than I could ever do, so I think it's pretty good.

SENATOR CHAMBERS: Well, that is not answering the question. (Laughter.) It is so jumbled, the composition is poor. There is nothing that carries your eye from that which is least important to that which is most important, in my opinion. So there could be a dispute about whether this thing ought to be adopted by the Legislature. The Legislature is being asked to make a judgment about art, unless this is not supposed to be art...

PRESIDENT: One minute.

SENATOR CHAMBERS: ...it's just an advertisement. It's a cheap, tawdry ad. And, Senator Goodrich, sitting back there thinking that I take him seriously when he says that somebody is going to appropriate this thing and use it illegally, why if you've got a

product that will sell, Senator Goodrich, if you put this on it, you automatically decrease the value of it, it would cheapen it. This is carnival kind of stuff. Let me ask you a question. What item do you think would sell as a result of having this thing on it which would not sell otherwise? Could you give me an example? (Laughter.)

PRESIDENT: Were you asking somebody a question, Senator? (Laughter.)

SENATOR CHAMBERS: Not just somebody, Senator Goodrich, who is somebody.

PRESIDENT: Oh, Senator Goodrich, would you like to respond?

SENATOR GOODRICH: Yes, I'll be happy to. Remember, Senator Chambers, when we had the bicentennial and we had all kinds of promotional gimmicks being produced, ashtrays, napkins, any kind of thing you wanted to talk about, they were promoting it, all kinds of companies were promoting that sort of thing, t-shirts, you name it, they would promote it to make a buck off of it. The object was...is, rather, that if the people that are going to use this seal get permission from this commission, the commission in turn can get part of the proceeds from that sale and fund the commission activities themselves of their own with that kind of revenue. If the...if you don't have some kind of control by the commission itself so that they in turn can approve or disapprove of the promotional group for profit, trying to promote something that could be an absolutely pornographic type of material, and yet use this seal on it, it just kind of behooves us to have a little control over who can use the seal.

PRESIDENT: Time has expired. Senator Crosby, please, followed by Senator Landis.

SENATOR CROSBY: Thank you, Mr. President and members. I've been listening to this discussion about the amendment and several things did come to my mind. The question about who might use the seal on what went through my mind that it might even be on like packages of cocaine or marijuana, Senator Chambers. I suppose that's in the spectrum of the scenarios we're painting. I'm not sure what the bicentennial commission did, so I can't speak on that. But it seems to me that this is what is known as free enterprise. If you take this graphic and

use it and try to sell your article, let the buyer beware, if you don't want to buy it, don't buy it. I think what we should do at this point...and, Senator Moore, if you'd think about it maybe between now and Select File, because I think maybe I'm going to vote for Senator Chambers' amendment, that you might separate the graphic from the bill. Senator Moore, are you listening? No, you're not. (Laugh.) Okay. I think what you should do is separate the graphic from the bill, because I don't like to see the bill stymied. I think the idea of celebrating the 125th is a good idea, because, you see, I probably won't be around for the 150th, so I'd like to celebrate the 125th. So, if you'd consider doing that, to separate the graphic, and let us know who was the artist or whomever drew the seal, and just give the Legislature a little more information about the graphic and the significance of what all...like those blot tests. I was interested in what Senator Chambers was seeing in the corn and so on. You do see little worms in corn once in a while, Senator Chambers. So I'd like to suggest that you do that, Senator Moore, separate the graphic from the bill, and let's get the commission set up, because that's a good idea, and don't lose your idea just because of one part of it, and maybe you'd even come up with a better picture, who knows. Thank you.

PRESIDENT: Thank you. Senator Landis, please.

SENATOR LANDIS: I just want to intervene to say that in the event you want to control the use of a graphic you don't have to use a criminal statute. There is a trademark registration process that you could use, administered by the Secretary of State's office, to the best of my knowledge. It's related to the concept of copyrights, but it's for the purpose of logos and special graphic identifications for companies and the like. I would imagine that a trademark registration with its accompanying civil remedies for infringement would be an appropriate remedy here, and you ought to take a look at that.

PRESIDENT: Thank you. Senator Chambers, please, followed by Senator Lynch.

SENATOR CHAMBERS: I'll just wait to close.

PRESIDENT: You're the last one, Senator Lynch, but thank you anyway. Senator Chambers, did you wish to close? All right.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature,

and Senator Moore, maybe what Senator Crosby suggested is right, separate the wheat from the graph, graphic. (Laughter.) Well, anyway...yes. Somebody told me that something down here that I thought was larvae is really wheat. So it shows that not everybody has sufficient background in agricultural matters and items to understand what it is that they see. But I'm sure that, if they send this item around the world, then there are people who will see different things, so maybe there should be an explanation that goes along with it. I've tried to deal with this in a lighthearted fashion, but I'm really serious about us continuing as a Legislature to criminalize conduct. We're too quick to attach criminal punishments to conduct, and there is no need to make this a crime. Oh, Senator Landis is gone, I was going to ask him a question. Oh. Senator Landis, if somebody has a copyright and I infringe on that copyright, is that a civil or a criminal offense?

SENATOR LANDIS: It's a civil offense and what you do is you obtain the benefit that went to the wrongdoer. They make a profit on it, you get their profit, basically. And it is a civil exchange in the form of compensation for having used their property interests.

SENATOR CHAMBERS: Thank you. Senator Landis, I agree with what he said absolutely. So why is the State of Nebraska going to make it a crime to take this? I don't know what all these penalties are just by memory. But there is probably a fine that attaches to a Class III misdemeanor. And the thing itself is not worth the amount of the fine. You take somebody to court for having infringed, and if the judge...there was a judge of the U.S. Supreme Court, named Oliver Wendall Holmes, and he wrote a little rhyme and he talked about he opened this paper that somebody had written, or somebody opened the paper that he had written, and the guy was just laughing and laughing, then pretty soon he got to another line, and by the time he was through he was rolling around on the floor and Holmes concluded by saying, and that's why I never write as funny as I can. After the judge got up off the floor, wiped the tears out of his eyes caused by the laughter, I don't think a judge would convict anybody for having done something with this, because it's not a crime to be foolish, and that's the most you could accuse somebody of, being foolish to circulate something like this. But it's a mistake, in my opinion, and very bad legislative policy to make this a crime. So my motion is that we strike Section 4.

February 22, 1990 LB 996, 1009, 1053, 1146, 1221

PRESIDENT: Thank you. The question is the adoption of the Chambers amendment. All those in favor vote aye, opposed nay. Senator Chambers.

SENATOR CHAMBERS: I'll ask for a call of the house and we'll take call in votes.

PRESIDENT: Okay. The question is, shall the house go under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 18 ayes, 0 nays to go under call.

PRESIDENT: The house is under call. Please return to your seats and record your presence. Those not in the Chamber, please return to their seats and record their presence. The question is the adoption of the Chambers amendment, and call-in votes are authorized.

CLERK: Senator Moore changing from no to yes. Senator Langford changing from no to yes. Senator Smith changing from no to yes. Senator Morrissey voting yes.

PRESIDENT: Record, Mr. Clerk.

CLERK: 27 ayes, 4 nays, Mr. President, on the adoption of the Chambers amendment.

PRESIDENT: The Chambers amendment is adopted. Mr. Clerk, do you have something for the record?

CLERK: I do. Mr. President, your Committee on General Affairs, whose Chair is Senator Smith, reports LB 1053 to General File with committee amendments attached, that is signed by Senator Smith. Government Committee reports LB 996 to General File with committee amendments attached, signed by Senator Baack. A series of confirmation hearing reports by the Health and Human Services Committee, chaired by Senator Wesely. Senator Hannibal has amendments to LB 1221; Senator Wesely to LB 1146. That's all that I have, Mr. President. (See pages 933-40 of the Legislative Journal.)

PRESIDENT: Senator Robak, would you go to your microphone and say something about adjourning until tomorrow at nine o'clock.

If you want to add something like kumquats, it's all right.

SENATOR ROBAK: Yes, Mr. President. I move we adjourn until Friday, February 23rd at nine o'clock.

SENATOR MOORE: Machine vote.

SENATOR ROBAK: Reverse order.

PRESIDENT: You've heard the motion. All in favor say aye. Okay, a machine vote has been requested. Mr. Clerk, the question is, shall we adjourn? All those in favor vote aye, opposed nay. Mr. Clerk. Please return to your seats so we can hear your response. It's a machine vote. Okay, we'll not have a roll call, we'll have a machine vote. Please return to your desks. Please return to your desk. All in favor vote aye, opposed nay. The question is, shall we adjourn? Record, Mr. Clerk, please.

CLERK: 12 ayes, 18 nays on the motion to adjourn, Mr. President.

PRESIDENT: We are not adjourned. And we're back on...

CLERK: I have nothing further on the bill, Mr. President.

PRESIDENT: Then the question is the advancement of the bill. Senator Moore.

SENATOR MOORE: I move the bill.

PRESIDENT: Okay. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, even without Section 4 this is a bad bill. This is very poor policy to put a drawing in statute and ask the Legislature to endorse that drawing. I'm not aware of that having been done by this Legislature before. Even when they try to describe the design that might appear on the license plate, they don't draw a picture and put it in the statute and then we be asked to endorse that drawing. I know that Senator Moore wants to move this thing, and for trying to do what he thinks is appropriate, I cannot fault him. But he has to understand that when I see something that I think is bad for the Legislature, I have to oppose it. So I'm going to ask him a question and it might

hasten these proceedings.

PRESIDENT: Senator Moore, please.

SENATOR MOORE: Yes.

SENATOR CHAMBERS: Senator Moore, would you be willing to strike Section 3 of the bill which would be this drawing?

SENATOR MOORE: No.

SENATOR CHAMBERS: Then I'm going to discuss it and I have a motion. Here's the problem, for whatever reason the Legislature might vote to move this bill, the Legislature may vote to enact the bill, and the only thing the public is aware of is that the Legislature did it. And as a member of the Legislature, regardless of how I vote, I'm deemed a co-conspirator. And I wouldn't want to see something like this endorsed by the Legislature. We're arguing taste now. And my taste is such that I feel something like this ought not be passed in a bill by this Legislature. The art work is not creative, it is mechanical, it is...it does not flow at all, it's jumbled. It's subject to different constructions and interpretations. And why in the world should I not do everything I can to prevent, if I can, the passage of a bill such as this? My motion is to kill the bill.

PRESIDENT: The call is raised.

SENATOR CHAMBERS: So, since I have a motion up there, I'm not going to continue discussing Senator Moore's motion to advance the bill.

PRESIDENT: Senator Moore. Oh, you have a motion. All right.

CLERK: Mr. President, Senator Chambers would move to indefinitely postpone the bill. Senator Moore, you would have the option to lay the bill over.

PRESIDENT: It will be laid over.

SENATOR MOORE: Recognize me again and I'll adjourn. (Laughter.)

PRESIDENT: Did you make a motion to adjourn?

SPEAKER BARRETT: The Chair recognizes Senator Scofield.

SENATOR SCOFIELD: Thank you, Mr. President, I think we can start the study that we have envisioned here for a relatively modest amount of funds and, therefore, for the fiscal year, '89-90, I appropriate \$10,000 essentially just to start the process in motion, to start the search for a consultant. We need to get the members of the Air Authority appointed. As some of you have mentioned, Senator Nelson mentioned there is consulting going on in Grand Island. We have some expertise here in the state around the state on this area, in this area, the new futures people, and so I think for the initial outset the important thing is to get the authority in place and we will need to contract with some consulting assistance, so we start with 10,000 for '89-90 and then add 80,000 for '90-91. That is, as we mentioned before, passed through the Department of Aeronautics and then whatever balance might be left at the...on June 30 of this year would be reappropriated to continue this on. I believe, given the opportunity to learn from South Dakota's experience and I believe it is Iowa and North Dakota are looking at similar kinds of activities, given our existing research capabilities, I think we can start this for a relatively modest price tag and move forward. That is the essence of the fiscal note. I would ask you to advance it. Thank you.

SPEAKER BARRETT: Is there discussion on the advancement of LB 1184A? Any discussion? Seeing none, those in favor of the advancement of the bill please vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 1184A.

SPEAKER BARRETT: The A bill is advanced. Have you matters for the record, Mr. Clerk?

CLERK: Mr. President, I have a report of registered lobbyists for this week as is required by statute.

And I have amendments to be printed from Senator Moore to LB 1009. That is all that I have, Mr. President. (See pages 1124-25 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. The Chair is pleased to announce