

March 5, 1990

LB 980, 1141A

consent on this floor. He has no conflict of interest, I believe, by unanimous consent. He is of high moral character. He has demonstrated intelligence, understanding and a willingness to learn. I think, based upon those qualifications, he deserves our support, and I ask you to support Dr. Thorson for confirmation as Nebraska's member of the Low-Level Radioactive Waste Commission so that he can continue as its Chairman.

PRESIDENT: Thank you. The question is the approval of the confirmation report. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 30 ayes, 5 nays, Mr. President, on the confirmation of Dr. Thorson.

PRESIDENT: The confirmation report is approved. Anything for the record, Mr. Clerk?

CLERK: Mr. President, one new item, LB 1141A offered by Senator Warner. (Read by title for the first time. See page 1146 of the Legislative Journal.) That is all that I have, Mr. President.

PRESIDENT: We'll move on to the Select File, LB 980, please.

CLERK: Mr. President, LB 980 is on Select File. First order of business are Enrollment and Review amendments, Mr. President.

PRESIDENT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 980.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. They are approved.

CLERK: Mr. President, Senator Lamb would move to amend. Senator, this is your AM2528. You will find it in your bill books, AM2528.

PRESIDENT: Senator Lamb, please.

SENATOR LAMB: Yes, Mr. President and members, you will remember the bill we passed last year which had to do with commercial

March 16, 1990

LB 1141A, 1141

are going to have to have a call of the house, so I would urge that the class go...the class, the whatever we are go under call.

SPEAKER BARRETT: Shall the house go under call?

SENATOR WITHAM: And call in votes will be accepted, encouraged.

SPEAKER BARRETT: Those in favor of the house going under call, please vote aye, opposed nay. Record, please.

CLERK: 17 ayes, 1 nay to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, please record your presence. Those outside the Legislative Chamber, please return. Senators Ashford, Chambers, Coordsen, Senator Haberman, Senator Hartnett, Senator Hefner, please check in. Senator Hartnett. Senator Chambers. Senator Scofield. Senators Pirsch, Robak, and Schellpeper, the house is under call. Call in votes are authorized.

CLERK: Senator Hartnett voting yes. Senator McFarland voting no.

SPEAKER BARRETT: Record, please.

CLERK: 25 ayes, 4 nays, Mr. President, on the advancement of LB 1141.

SPEAKER BARRETT: LB 1141 is advanced. The call is not raised. To the A bill, Mr. Clerk.

CLERK: Mr. President, LB 1141A is a bill by Senator Warner. (Read title.)

SPEAKER BARRETT: Senator Warner, on the A bill.

SENATOR WARNER: Mr. President, the A bill, if I remember correctly, is at the 135,000 level, which would not commence until July 1, I believe, of 1991, if I remember correctly. If, obviously, if the constitutional amendment would not be approved or not approved by this body and not approved by the voters, it would have no impact, but to reflect the rules of funding to be shown for the two succeeding years on any new legislation, this is the estimated cost, additional cost for the operation of the

March 16, 1990

LB 457, 1059, 1141, 1141A
LR 239

boards as provided for in the LR 239 and LB 1141, so I would move that the A bill be advanced.

SPEAKER BARRETT: Any discussion on the advancement of the bill? Seeing none, those in favor of its advancement please vote aye, opposed nay. Have you all voted? Please record, Mr. Clerk.

CLERK: 26 ayes, 1 nay on the advancement of 1141A.

SPEAKER BARRETT: LB 1141A is advanced. The call is raised. Have you items for the record, Mr. Clerk.

CLERK: Mr. President, just one, Senator Nelson has amendments to LB 1059 to be printed. That is all that I have. (See pages 1399-14021 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. Proceeding to LB 457, Mr. Clerk.

CLERK: Mr. President, 457 was a bill introduced by Senator Schmit. (Read title.) The bill was introduced on January 13, referred to the Banking Committee for public hearing. The bill was advanced to General File.

SPEAKER BARRETT: (Gavel.) The Chair recognizes Senator Schmit to open on the bill.

SENATOR SCHMIT: Mr. President and members, LB 457 is a bill which provides for branch banking in Class VI and VII counties in Nebraska, principally, Douglas, Lancaster, and Sarpy Counties, and allows you can operate any number of branches in those counties, and it will, no doubt, result in increased branch banking activity in this area. We have already this year enacted some legislation which allows for a substantial increase in branch banking in the state by virtue of the bill, I am not sure which one it was, Senator Landis isn't here, 956, 936, one or the other, but a bill which allows for institutions to acquire failing S & Ls, and so the branch banking question is not nearly as volatile as it was 20 years ago or even 10 years or 5 years ago. This bill, as I introduced it back in the early days of the 1989 session, should not be a controversial bill. You and I know that the savings and loans can branch unrestricted and do in many cases have a large number of branches. The banks, of course, have found themselves in a position where for competitive reasons they find it necessary to be able to establish branch facilities. I well recall when the

March 21, 1990

LB 220A, 348, 369A, 542, 571A, 594, 866
880A, 958, 965, 1032, 1059, 1094, 1141
1141A, 1146, 1222A, 1236
LR 382, 383

CLERK: 25 ayes, 2 nays to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please record your presence. Senator Schmit is the only one excused, so everyone else should be here. We're looking for Senator Wesely, Senator Lynch, Senator Schellpeper, Senator Pirsch, Senator Landis, Senator Emil Beyer. Senator Wesely and Senator Beyer are here now, so that is it, and there is a roll call vote. Oh, Senator Lynch is not here. I thought I saw him. Okay, we'll wait for Senator Lynch. Senator Lynch is here and the question is the advancement of the bill. Roll call vote in regular order. If you'll hold it down so the Clerk can hear your response. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1547-48 of the Legislative Journal.) 34 ayes, 12 nays, Mr. President, on the advancement of LB 1059.

PRESIDENT: The bill is advanced. Anything for the record, Mr. Clerk, at this time.

CLERK: I do, Mr. President.

PRESIDENT: The call is raised.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 220A and find the same correctly engrossed, LB 369A correctly engrossed, LB 880A correctly engrossed and LB 1146 correctly engrossed, those signed by Senator Lindsay. Enrollment and Review reports LB 1141 to Select File with E & R amendments, LB 1141A, LB 958, LB 571A, LB 1222A to Select File. (See page 1548 of the Legislative Journal.)

A communication from the Governor to the Clerk. (Read communication. Re: LB 348, LB 542, LB 594, LB 965, LB 1032, LB 1236 and LB 1094. See page 1549 of the Legislative Journal.)

Two study resolutions, Mr. President, will be referred to the Exec Board. (Re: LR 382, LR 383. See pages 1549-50 of the Legislative Journal.)

Senator Lamb has amendments to be printed to LB 866. (See page 1551 of the Legislative Journal.) That's all that I have.

April 3, 1990

LB 958, 1141, 1141A
LR 239

again, the motion offered by Senator Hall. All in favor vote aye, opposed nay. Record.

CLERK: 30 ayes, 0 nays, Mr. President, on the motion to overrule the agenda and take up Select File bills as evidenced on yesterday's agenda.

SPEAKER BARRETT: The motion prevails and we do return to yesterday's agenda, Item 10, Select File, and LR 239CA. Mr. Clerk, can you bring us up to date on where we left off?

CLERK: Mr. President, LR 239 was discussed yesterday, E & R amendments were adopted as was an amendment by Senator Warner, a second amendment by Senator Warner and an amendment by Senator Chambers. Mr. President, the amendment I have pending is by Senator Chambers.

SPEAKER BARRETT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I'm going to ask the Clerk if he would read that amendment.

SPEAKER BARRETT: Senator Chambers, excuse me. I would like to recognize the introducer of the bill at this point, Senator Withem, please, the primary introducer.

SENATOR WITHEM: Excuse me. I'm just asking a request that the bill be passed over at this time.

SPEAKER BARRETT: Thank you. If there are any objections, please so state. Seeing none, LR 239 is passed over. Senator Warner, question of the Chair, is LB 1141 necessary at this point, the implementing legislation or not?

SENATOR WARNER: Well, it certainly is necessary but I think we ought to pass over it.

SPEAKER BARRETT: Are there any objections? Seeing none, we'll pass over LB 1141 and presumably LB 1141A if there are no objections. Moving then to LB 958.

CLERK: Mr. President, on LB 958, I have no amendments pending to the bill.

SPEAKER BARRETT: Senator Lindsay.

April 4, 1990

LB 769, 1141A, 1141

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: I understand, Senator Schmit, I am not the one who asked for the Chair...for the agenda to be overruled. I was recognized because my light was on in an appropriate order following Senator Elmer who was called upon and waived. My light was on, I was speaking and, although it will take me awhile to get around to my point, I am addressing an issue which I did not make and that is the overruling of the agenda, but I'm speaking on that question to the body. As we decide what our agenda will be, it seems critical that if we have opportunities to do good work and work that has timely obligations that this is a key moment; and I was trying to bring that to the body. I believe I'm still in order. I think I'm speaking under the light which was recognized in order.

SPEAKER BARRETT: That's correct, Senator Landis, but I would urge you to speak to the subject at hand.

SENATOR LANDIS: Thank you. Let me move towards its relationship to this question. Senator Bernard-Stevens is about to attempt to overrule the agenda, be turned down by the Chair, and then begin a procedural wrangling to keep us away from LB 1141A. That's a fair characterization I think. Why? Because Senator Labeledz has some motions filed on LB 1141A because it reintroduces LB 769. Right? And this is the way to preclude that objection. This A bill is now available to be changed because we just changed LB 1141. The A bill was to the original bill, not to the bill we just sent to Final Reading. It can be changed. What all parties ought to remember is this rule in the rule book which says under Section 11, Rule 5, Page 39, no bill having been introduced may be withdrawn except upon motion of the first introducer, Senator Warner, with the consent of his or her co-introducers, he has none, such motion when made shall not be considered prior to the next succeeding legislative day, tomorrow. And for its adoption, shall require the affirmative vote of a majority of those voting upon the question. Now, my point to you, the Chair, to Senator Bernard-Stevens and to Senator Labeledz is this. If you want to wrangle about LB 1141A as an abortion bill, all that Senator Warner has to do is move to withdraw and nothing anybody can do will move that bill till tomorrow and we'll just go on with the agenda. LB 1141A is now perfectly framed to make the adjusting language to make clear that our intent on the depositors bill is

carried out. The bill drafters are now doing that work. It will be back forthwith. What I ask from the body is some forbearance, perhaps a brief recess to allow that work to be done, a chance for parties to talk. I don't know, but if we start this...this rock down the side of the mountain it will be an avalanche and we will miss the chance to do this work. And if I have any time remaining, I would yield to Senator Hall, a well-known advocate of LB 769.

SPEAKER BARRETT: One minute.

SENATOR HALL: President and members, is a problem. I mean we've got six and a half hours to deal with this issue if we're going to deal with it. If we don't, if we don't send some direction to the Banking Department through changing the legislation that we passed in LB 272A to clarify what we intended, I think it's clear, the Banking Director does not. If we don't make the change, LB 1141A is a vehicle, if we don't make the change, those people who I represented from the American Savings standpoint and that were referenced throughout the debate get nothing under her interpretation. That's unfair. That's why I would move to overrule the Chair with regard, or excuse me, use LB 1141A as the vehicle for this procedure. It surely isn't an abortion issue. It would be an abortion to leave those people out of the funding.

SPEAKER BARRETT: Time. On the motion to overrule the Chair, Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Thank you, Mr. Speaker. Members of the body, obviously I found out about the Commonwealth situation the same time as you are. And even though I did not support the Commonwealth vote, I very well feel that the intent of the Legislature was clear, there were the votes to do the Commonwealth package. And I think the intent of the Legislature should be pursued, solved, done. We need to get rid of the issue once and for all. I suggest two options and actually I'm mulling myself how to do that. One option would be I think I could file or someone could file a motion that we recess for 30 minutes, trying to get the wrangling over LB 1141 on the principal parties. I personally am not sure that's going to happen given a discussion I just heard between Senator Labedz and Senator Landis. I suggest the following as simply a possibility for the body and it's only a possibility. My original motion was and actually still is, not the original one

but the one before us now, is to suggest to the body that we are about to get into the area of parliamentary "raggling" for the next six, seven hours until midnight, we're about there, we're just about there. I was going to give the body one other opportunity if it chose to do so and if it didn't that was fine. But I wanted the body at least to be able to decide this issue. The motion before us now would be to override the Chair first, allow...then we'd need to have 30 votes to suspend the rules and what I would want to do then is to go to Item 6 and Item 7 on the agenda. I mean that is what is on the rule. My feeling is one, my feeling would be that hopefully in the hours that we have remaining we could work through those amendments giving the people, the principals, time to work on how to get out of the parliamentary mess that we're in. I personally would like to say we withdraw everything on LB 1141A and we take care of it right now and we pursue the next bill if that's the case because I want to get it solved. I don't know if Senator Labedz is willing to do that. So consequently, if we agreed with the motion, I think what I'll do is file a motion that we recess for 20 minutes and see if we can come up with something. That won't hurt anybody one way or another. And in the meantime I'll keep my motion there on the motion to override. And if we would do so and we would get to the other sections which would not take more than I don't know how...I'm not going to speculate how long it would take. I certainly would give my word that I'm not going to go on any of these bills and procrastinate until the wee hours so we don't get to something. I think we need to get to the bills, get them amended, fight those fights, get back to the agenda. I'm certainly not going to jeopardize those for one other issue if I can help not to. So at this point if a Page would come quickly, I'll send a motion to the desk to ask that we recess for 30 minutes to see if we can find a way out to make things go. We'll then return to the overrule of the agenda. We'll hopefully have some action at that point and some way to go that's responsible.

SPEAKER BARRETT: Do you have a priority motion on the desk? Senator Schmit.

SENATOR SCHMIT: I rise on a point of personal order if I may speak.

SPEAKER BARRETT: State your point, Senator Schmit.

SENATOR SCHMIT: I want to do the things that are right relative

to the depositors of State Security, American Savings and Commonwealth as much as anyone. I will cooperate in any manner to do so. There is no need to recess. We can proceed with the agenda while my esteemed friend, who is rapidly running out of my estimation, will proceed to draw up something which can work. But we have other bills on the agenda and I might just add I have an amendment for LB 980 which will stop you from all making fools of yourselves on making it a felony not to pay your taxes and that ought to be addressed also. But I just would implore you...we know what's going on. We all know what's going on. We know what's going on and I don't really care who wins or loses at this point. But I think it's absolutely ridiculous, Senator Bernard-Stevens, that you would ask at this hour that we recess for 30 minutes. Certainly you, Senator Landis and all those, Senator Hall, can work while the rest of the body proceeds with some of this other work. And if Senator Warner wants to pull LB 1141, so be it, he can do so. I don't think he wants to. Let's keep going.

SPEAKER BARRETT: Senator Schmit, I'm sorry, we do have a priority motion on the desk. The Chair has...the Chair has to recognize it and we must vote. Not debatable. The question is shall the house recess for 30 minutes? If you're in favor of that motion, vote yes. If you're not, vote no. Record.

CLERK: 3 ayes, 20 nays, Mr. President, on the motion to recess.

SPEAKER BARRETT: The motion fails. Back to the speaking order on the motion to overrule. Senator Abboud, followed by Senator Labeledz.

SENATOR ABOUD: I'll waive off.

SPEAKER BARRETT: Thank you. Senator Labeledz, would you speak to the motion to overrule?

SENATOR LABEDZ: Yes, Mr. Speaker. I believe that evidently it's known on the floor what I was trying to do with LB 1141A so I urge the members of the Legislature to sustain the Chair or not to overrule the Speaker's agenda. We're voting on overruling the Chair, I'm sorry. Okay. There are other bills following. I have a rules suspension there for the...for LB 769. I think there are a few members on the floor that realize what I was doing and they came up with this. But if it's truly as important as Senator Landis said, then there are

April 4, 1990

LB 272A, 854, 1141A

other bills that he can do this to and even question the germaneness rule. If he wants to put it on the other abortion bill, LB 854, but I'm telling you this is what is happening. They are trying to stall getting to LB 854. We know that. LB 1141, I'd be willing to take LB 854 which is the other abortion bill and let them put the Commonwealth correction or American Savings, whatever it is, into the other abortion bill. But I think that by doing what I'm doing on LB 1141A is the proper thing to do to stop this constant agenda and of filibustering the bills. If we do go onto my amendments, I have a rules suspension there, it's all set up. The only thing that's there is three or four motions by Senator Bernard-Stevens to bracket the bill to different dates and I'm going to challenge the Chair on that because you can only do it at one stage, but he does have some amendments on there that will amend the bracket motion and he's picking out different dates. So I want you to know what's going on. If they want a bill to correct Commonwealth's and American Savings' error, I'm willing to vote for that and willing to give up LB 854 if that's what it takes; but only if LB 1141A passes as amended. Thank you.

SPEAKER BARRETT: Thank you. Senator Schmit followed by Senator Hall.

SENATOR SCHMIT: Mr. President and members, as I have said, I want to work to do anything that can be done to see to it that all participants in the ill-fated LB 272A are paid. You may have a little more problem than you anticipate and you might have consulted with the attorneys in this crowd, Senator Bernard-Stevens and Senator Owen Elmer, before you began your procedure because there is such a thing as a five-day rule. And I believe that you are introducing a new bill at this point, and you may have a constitutional problem and one which may have to be handled in some different kind of floor work. I was tempted to call it chicanery, but I won't out of respect for the people who need to be paid. But I do not believe that you can just take LB 1141A and convert it to your wishes here on the 58th day because it's a new bill. It's the introduction of a new bill. It is not an amendment to anything. You're striking the section and then starting over. And I would suggest if you think you've got problems with the bill now you're going to have really serious problems if you attempt to do that on LB 1141A. And I want to also say that I appreciate the body not voting to recess because there isn't any reason why. I'm sure that Senator Labeledz has got the same concern, Senator Hall has and I would

April 4, 1990

LB 272A, 1055, 1124, 1141A, 1221

hope that we would be able to continue the work. We ought to be able to pass over LB 1141A and try to make the thing work whichever way the body chooses and continue our work whether...

SPEAKER BARRETT: Senator Schmit, excuse me.

SENATOR SCHMIT: Surely.

SPEAKER BARRETT: (Gavel.)

SENATOR SCHMIT: Thank you, Mr. President. So I'm not offering it as a motion, but I'm offering as a suggestion in the interest of expediency and cooperation that we pass over the bill at this time and let the principals get together while we work on LB 1055, LB 1221, LB 1124 and a number of other bills, Mr. President. I believe it's a reasonable suggestion. And Mr....I don't know who to ask, Senator Landis.

SPEAKER BARRETT: Senator Landis, would you respond?

SENATOR LANDIS: Ask me the question.

SENATOR SCHMIT: Senator Landis, is there a problem with the use of LB 1141A at this time on this day because I recall years ago on a Christian school...

SPEAKER BARRETT: Senator Schmit, would you please speak into the mike.

SENATOR SCHMIT: Years ago on the Christian school bill I believe you challenged the introduction of a bill in this manner in the last few days. Would you respond please.

SENATOR LANDIS: Yes. And there is a potential flaw, you are correct in that. The suggestion that I would make to the body is that they proceed on two tracts, one being a legislative act, the second being a legislative resolution and do them both at the same time, trying to make sure that we have workable language. Senator Schmit, you're exactly right. There's a problem with five day language should it be challenged. And I'm not sure whether you can argue that LB 272A, having been passed this session, would authorize us to do this. I am far enough out on the legal limb to say...to acknowledge that there is trouble on that area. I'm just trying to nail down the hatches as best I can.

April 4, 1990

LB 272A, 1141A

SENATOR SCHMIT: Thank you, Senator Landis. And I guess at this point I'm going to offer a motion that we pass over the bill, over LB 1141A at this time. Okay, I'll withdraw it.

SPEAKER BARRETT: Thank you. Senator Hall followed by Senators Chambers, Bernard-Stevens, Smith and Abboud. Senator Hall.

SENATOR HALL: Thank you, Mr. President and members. If it's the will of the body to take up LB 1141A and deal with it based on what's at the desk of the Clerk, that's fine. That's fine. It's no sham or charade or attempt on my part in any way, shape or form to get to any debate on any of the bills that are on the agenda. The issue here is one that I would consider a crisis. But, ladies and gentlemen, that's fine. Let's take it up. I made the issue with Senator Landis first of all that couldn't we deal with this in the form of a legislative resolution. We both thought that would work. Cynthia Milligan, Director of the Department of Banking, said that the issue that Senator Landis just spoke about dealing with it on two tracks made the most sense and was the most defensible. I'm willing to take a gamble on the resolution if the decision from the Department of Banking is that, well, sorry folks at American Savings, you're out of luck. So be it. The injunction will be filed, there will be lawsuits and nobody will get a dime; but the money will be appropriated I guess. It will just sit over there and gather a little dust and a little interest, but that's what will happen at least from talking to the lobbyist for American Savings. They'll just...they'll take their chances on a resolution, but they've also said if the decision that comes down is wrong based on legislative intent and everything that has littered the transcript that I went through over what we talked about last year on Final Reading on LB 272A and what we talked about this year when we passed it, those three institutions are clearly spelled out a number of times. The intent of what we did is there. It's ridiculous that we had this presented to us because I think if you read the language it's not a problem. So frankly, I don't care. I'm going to go about the process of drafting a resolution that states what our intent was and hope that everything works out, especially for those folks at American Savings.

SPEAKER BARRETT: Senator Bernard-Stevens, please. Senator Smith, on the motion to overrule, Senator Bernard-Stevens, no, I believe that we'll ask you to close. You may speak one time on

April 4, 1990

LB 431A, 431, 1141A

a motion to challenge. Senator Smith.

SENATOR SMITH: Mr. Speaker, I guess maybe I would like to have clarification. It is my understanding that this morning there was a bill, LB 431A, that was sitting there, was not used because of what we've done prior to that in LB 431 and that bill was pulled from the agenda without any discussion on the floor. Now I guess I'm trying to figure out how it is that we get down and quite honestly I'm being selfish. I have a bill coming up here that's going to impact the economy of the State of Nebraska and my district that we've been waiting for and working on forever and ever. And now we're down to LB 1141A, how is it that that one is still there? Is that still there and it's going to be used for the purposes of gutting and I guess I'd like to have clarification how it is that that one stays there and the other one was pulled?

SPEAKER BARRETT: Are you asking a question?

SENATOR SMITH: I guess I'm asking that to you. I don't know who else to ask it to.

SPEAKER BARRETT: Senator Smith, I believe the question before the body is the overruling of the Chair.

SENATOR SMITH: I can't ask for clarification?

SPEAKER BARRETT: That is the question before the House right now.

SENATOR SMITH: All right then...

SPEAKER BARRETT: Is the Chair to be overruled or is it not? Any other conversation is extraneous.

SENATOR SMITH: How do I get an answer to that question?

SPEAKER BARRETT: We haven't gotten to LB 1141A, Senator Smith.

SENATOR SMITH: I'll put my light back on. Thank you.

SPEAKER BARRETT: Thank you. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, from the conversations I've had with some of the principals, including the sponsor of the bill,

I believe I'm correct it should be pulled like every other one has been pulled, like LB 431A had been pulled this morning. Senator Hall said he's going to draft a resolution to try to get some kind of intent before whoever would need it. I don't know what the impact of that will be because I haven't seen a situation confronting us like the one where the Banking Director has made the kind of determination she has made. She is an administrator, has decided to construe a law in a certain way. If there is no effective challenge, then what she says is the way it's going to be done. The means of making that challenge is up to those who will be harmed by it. The Legislature has to consider what it's going to do in the face of that challenge. But I'll tell you this--the rules have been played with and Senator Labeledz says that she doesn't think that a bracket motion can be amended. I know that a lot of things have been done with the rules; but if that cannot be done, then her motion to suspend the rules is out of order because I say it is and a few of us feel that way. And we'll just have a shouting match and there won't be anybody recognized and allowed to say and do anything. Now they've been able to bulldoze and bully and if that's the way they like to do it, we can all do it. They're not the only ones. And if that's the way it's to be, fine. But Senator Warner can control this whole thing by simply moving to withdraw his bill, which under the rules he has the right to do. He has no co-sponsors. What the Chair could have done was to pull the A bill when there's no need for it as he did with LB 431. This abortion thing has not only tainted this session, it has corrupted it. There is so much fanaticism, outright zealotry that is being orchestrated outside this state that the Legislature no longer belongs to the legislators. There are others outside this state setting the agenda. And there are people on this floor getting their marching orders. And they're going to try their best as little tin soldiers to do what they've been dictated to, and I'm going to fight it every step of the way. They're willing to do this, to hold the session their way and I'm willing to do everything within my power to stop them. The motion before us is one to overrule the agenda. I don't even know that the motion is for to... I don't know what the agenda is being overruled for. But as far as LB 1141A, the agenda doesn't have to be overruled or dealt with in any way for the Speaker to pull it or for Senator Warner to make a motion to withdraw it. So, in a sense, we're expressing what we feel, we're getting things on the record, but our wheels are spinning. It's clear that those in Washington, D.C., who call themselves pro life have said to Hades with the depositors. That's what it

amounts to, and those orders are to be carried out to the letter. I'm going to see how this plays out.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I thought that Senator Hall's remarks were very valid and I feel much the same way that he does. Let us proceed...I'll try to solve the problem I'm working on by a legislative resolution. I won't be looking towards LB 1141A to do that. If Senator Labedz wants to carry forward the motion to try to change or if Senator Bernard-Stevens wants to try to effect the agenda, let that proceed. It seems to me that the Chair has ruled correctly in each and every instance today, but that's really not on the minds of my colleagues. And I send you my warm regards, Mr. Speaker, for a tough job.

SPEAKER BARRETT: Thank you. No other speakers. Senator Bernard-Stevens, would you like to close on your challenge?

SENATOR BERNARD-STEVENS: Yeah. Thank you, Mr. Speaker, members of the body. Again, I will not rise to the debate of Senator Labedz at this point. Members, of the body, I come to you with the same integrity that I had before and that is the following. This morning I gave the body a choice. I said we know where we're going to come at some point today. We might be able to get some of these other things done. Now if Senator Labedz and others want to say all I'm trying to do is stall on LB 854 I'd have to argue with you a little bit that's not true. When LB 854 or LB 769 comes up on their own, I can handle that as best as I can. And if I win I win, if I lose, I lose. I mean that's the way it's going to work out. I'm not afraid of that battle. All I was trying to do for the body, and again, I'm doing it just so you can have a decision on what you want to do. We can get bogged down now on LB 1171A (sic). And there is some question about whether or not Senator Warner actually can withdraw that. There is a question there whether that's done. When is the bill the property of the sponsor and when is it the property of the Legislature? And that would have to be ruled on and we'd have to make that decision. So that may not be as easily done as we once thought. My motion was simply give the Legislature an alternative if you want to take it; and if you don't, fine. I don't care. The alternative is that you can go to Item 6 and Item 7 on those bills that are going to be returned for specific amendment because if I understand things

April 4, 1990

LB 1141A

correctly, after midnight tonight those will not be possible. As soon as we're done there we'd go right back to LB 1141A which is where we are now. And we can go for as many hours if we want to or minutes, whatever the case may be. The choice is simply yours to make. I would also ask that maybe in the deliberations if we go to Section 6, maybe during the discussions Senator Hall or Senator Landis and others might be able to find one of those bills in a way to accomplish what they want to do on Commonwealth. It certainly gives them some opportunities to do so. If you as a body want to take those opportunities and get those things done, I give you a chance to do so. If you don't want to take those opportunities, I give you the chance to do that as well. And that's the only thing it is. It's not me. I've given the decision to you. I can live with either way. I think we at least need a chance to try. With that, Mr. Speaker, I would hope that we would overrule the Chair which takes 25 votes which would simply allow the discussion on the changing of the agenda so we could get some other things done before we get totally bogged down. Thank you.

SPEAKER BARRETT: Thank you. Pursuant to Rule 1, Section 12, the question is, shall the Chair be overruled?

SENATOR LABEDZ: I would like to clarify that. He said something about to overrule the Speaker's agenda. For what? What are we doing?

SPEAKER BARRETT: The motion was offered earlier.

SENATOR LABEDZ: Um hum.

SPEAKER BARRETT: We are now closing. We're in the process of calling a vote.

SENATOR LABEDZ: You can't clarify what...he's overruling the agenda.

SPEAKER BARRETT: Mr. Clerk, would you please read the motion?

CLERK: Senator Bernard-Stevens' amendment or motion is that we change the Speaker's agenda so as to consider Items 6 and 7 on the agenda ahead of Item 5. Is that right?

SPEAKER BARRETT: That motion was ruled out of order by the Chair and that decision has been challenged. It is that simple.

And the question is, shall the Chair be overruled? A majority of those present are necessary to overrule the Chair, not 25. Those in favor of the motion to overrule vote aye, opposed nay. Have you all voted? Record please. Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Yeah. I'm not going to ask for a call of the house, but I would ask for a roll call because I think most of the members are here.

SPEAKER BARRETT: Thank you. Members, please return to your seats for a roll call vote on the motion to overrule, please. Mr. Clerk, would you call the roll on the motion to overrule, please?

CLERK: (Roll call vote. See page 1891-92 of Legislative Journal.) 13 ayes, 18 nays, Mr. President, on the motion to overrule the Chair.

SPEAKER BARRETT: Motion fails.

CLERK: Mr. President, Senator...priority motion, Senator Schmit would move to reconsider the vote just taken to overrule the Chair.

PRESIDENT NICHOL PRESIDING

PRESIDENT: Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, as calmly as I can, I would suggest that Senator Warner is in order if he wishes to withdraw his bill. I believe then the rule provides that it has to lay over a day, but that is his prerogative. Number two, I believe it is also true that there isn't any way at this time that we can introduce a bill which will save, I guess you'd use the word, the depositors of American Savings. If we blundered, we blundered. I do not believe we blundered. It is not the first time that an agency director has disagreed with this Legislature. We can adopt a resolution and advance it. It doesn't mean a darn thing, but we can do so and hope and pray that it has some impact upon the Director of Banking. But insofar as being able to introduce a bill, there isn't anything we can do. We are...our hands are tied by the Constitution of the State of Nebraska. And, therefore, any attempt to use LB 1141A or any other bill in an attempt to clarify the problem that has been developed by a ruling of the Director of Banking

is an attempt in futility. We're just wasting our time, I would suggest. I know that Senator Bernard-Stevens has a motion to bracket the bill. I don't know what you want to do with that, but I would suggest that if you are in the interest of conserving time that you stop and take a look at where we are at. The body obviously does not want to overrule the Speaker's agenda and justifiably so. We've been waiting all day for these bills to be heard. We just as well argue them. I have bills on down the line under 6 and 7 I'd like to have heard very much. I think they're important. I think they ought to be heard. All of us have some interest in some of those bills. But we have nothing we can do for the depositors of American Savings except to plead with the Director of Banking. Some of the very best minds in this body worked on that bill. Senator Landis lived and breathed it for a long time. I trust his judgment. He's chairman of the Banking Committee. I believe the bill is all right, but I'm not an attorney and I'm not going to try to impose my opinion upon that of Director of Banking. But we are wasting time to talk about trying to solve the problem statutorily. LB 272A is no longer a bill. It carried the emergency clause and, as such, it is part of the statutes of the State of Nebraska. We're not fiddling around with the bill anymore. That's a statute and everyone in here knows it. And so in an attempt to try to correct something which has just developed, it happens all the time. There was an Omaha National case as I recall some time ago, and we all stood on our heads and tried to do something about it. You couldn't do anything. We ran out of time. That is something that happens every single session. Why we ran out of time, we can argue that and we can all bear some of the responsibility for it. But I would very much like to be able to argue Senator Labedz's motions on LB 1141A. If the body chooses not to do so, so be it. We live and die by the system. Senator Chambers refers to tin man and so forth. Senator Chambers, we know who bullies the place and we know who bluffs, we know who does all the rest of the stuff. We all, in our own good time, use our own two eyes, ears, tongue for whatever purpose we deem is in the public interest, hopefully. No one has a priority on that, no one has an option on that, no one has a monopoly on that. There comes a time when we're in the last six hours of the session of this day at least of this session and we're limited as to our options. I would suggest that we proceed to LB 1141A, do whatever you want to do with it. If Senator Bernard-Stevens chooses to bracket it and argue that bracket motion for a long period of time, that's the way the system works. If we run out of time, we run out of

time. And I am willing to live by the rules. I know you all are. There is going to be some time when they're going to work against you; there will be some time when they work for you. But to imply that any one of us is any more guilty of chicanery than the other is not valid. I would suggest that it was not exactly kosher, it was not exactly fair to try to tell the body, and I don't think that it was done intentionally, to try to convince the body that we're going to solve a problem of LB 272A by amending a bill and creating a new bill. There are plenty of people in here with more experience in those areas than I have who knew it could not be done. We also all know that the adoption of a resolution means nothing. It means absolutely nothing. You just as well give the Director of Banking a phone call and it will mean just as much to her as the adoption of the resolution. If she believes she's right, she's going to insist upon it and persist on it; and I don't know what the results will be. I do not believe that Senator Landis nor any member of this body needs to be embarrassed by virtue of the fact that there now seems to be a technical problem with that bill. There were plenty of times that people could have looked at that thing if they had any question about it. We know it had plenty of discussion, debate and articulation. Now seems to me to be a particularly inopportune time to discover a problem with that bill. And I am particularly disturbed because it would be doubly wrong to pay a part of the people and not pay them all to the maximum intent of this Legislature. I would hope that we would proceed with LB 1141A, let the chips fall where they may, unless Senator Warner might want to withdraw the bill. Mr. President, I ask permission to withdraw my motion.

PRESIDENT NICHOL PRESIDING

PRESIDENT: You withdraw your motion. All right. We're back to overruling the Chair, is that correct, Mr. Clerk? Where are we? We're back to LB 1141A. Mr. Clerk.

CLERK: Mr. President, LB 1141A is on Select File. The first item I have, Senator Warner, I had amendments from you, Senator, to the bill itself.

PRESIDENT: Senator Warner, please.

SENATOR WARNER: Mr. President and members of the Legislature, it was my impression that the practice had been this session and it happened earlier this afternoon that substantive legislation

April 4, 1990

LB 1124, 1141A

did no longer needed an A bill. The A bill went on the agenda. And it was my assumption that that was what was going to happen with LB 1141A. I understand I can withdraw or I can do a variety of things. My assumption is if there's 30 votes, it doesn't make any difference what I might try to do. And I guess I'm inquiring if the bill is still on the agenda by the Speaker because the practice has been not to allow A bills to become a vehicle for other amendments this session. Certainly that was not true in the past, or at least in recent days I believe that's been the ruling, and I don't know if the Speaker has done that or not.

PRESIDENT: The Clerk will go see. I think he's nearby, Senator Warner, if you'll just hold tight a minute. Senator Warner, Senator Warner. (Gavel.)

SENATOR WARNER: Yes.

PRESIDENT: The Speaker has visited with...the Clerk has visited with the Speaker and it is the Speaker's wish that LB 1141A is not on the agenda anymore.

SENATOR WARNER: That would be consistent with the rulings earlier.

PRESIDENT: That's correct.

SENATOR WARNER: I would concur in that.

PRESIDENT: What did you say?

SENATOR WARNER: I said that's been the rulings all the time and I have no problem with that. I agree with that.

PRESIDENT: Yes, okay.

SENATOR WARNER: That it would no longer be on the agenda.

PRESIDENT: All right, thank you. We'll move...we'll go to LB 1124 please, the ethanol bill.

CLERK: Mr. President, LB 1124 is the next bill on Select File. First item, Senator...Senator Lindsay, I have E & R amendments, Senator.