

January 4, 1990

LB 939-968
LR 234

And that is not a valid, logical position. I don't think it is a reasonable legislative position and in order not to drag out the discussion on this resolution, that will be all I have to say except to reemphasize that I intend to vote against this resolution and I'll vote against others of similar stripe.

PRESIDENT: Senator Hannibal, would you like to close...Senator Lynch, your light came on. Senator Hannibal, would you like to close, please.

SENATOR HANNIBAL: Thank you, Mr. President. Senator Chambers, I also have many thoughts running through my head, but I will exercise some constraint as well. I appreciate you pointing up some facts about the issue of what days are Nebraska citizens days and which days are days for all the people that we are elected to serve, and I agree with you wholeheartedly. Senator Smith, I'm not sure I really needed that much support saying that this resolution wasn't near as bad as some of them that we have, but I guess I'll take a vote whenever I can get it. Yes, it is true that each day that we meet in session, as a matter of fact, each day that we serve in the Legislature, is for all the citizens in Nebraska. That is my philosophy as well. However, I would suggest that we have many days that are proclaimed to be special for certain kinds of occasions and, in fact, certain individuals and that to say that because this all day should be for Nebraska citizens and not have a day that we proclaim as a special recognition would be tantamount in my estimation to saying that we shouldn't have a veterans' day because that implies that every other day is not a day that should be recognized for veterans and their service to us or any number of things that we do have. I believe that this is a gesture of recognition that we are here because of the citizens and we are here to serve the citizens and it's not near as bad a resolution as some of them we've passed and I would urge its adoption.

PRESIDENT: The question is the adoption of the resolution. All in favor vote aye, opposed nay. Record, please.

CLERK: 15 ayes, 4 nays, Mr. President, on adoption of LR 234.

PRESIDENT: The resolution is adopted. We'll go on to number six, introduction of new bills.

CLERK: Mr. President, new bills. (Read by title for the first time, LBs 939-968. See pages 138-45 of the Legislative

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 9, 1990

LB 259, 880, 942, 1051-1056

that Senator Withem and Scotty Moore and others have been working long and hard on that. I'm a little apprehensive in some way, but nonetheless, I know they are working at it and that is good. So without any further comments, I would ask you to support the amendment.

SPEAKER BARRETT: Thank you. The question is the adoption of the Schmit amendment to the committee amendments. All in favor vote aye, opposed nay. Record, please.

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Schmit's amendment to the committee amendments.

SPEAKER BARRETT: The amendment to the amendment is adopted. For the record, Mr. Clerk, new bills.

CLERK: Mr. President, a few things, yes, sir, thank you. New bills: (Read LBs 1051-1056 by title for the first time. See pages 224-26 of the Legislative Journal.)

Mr. President, finally, I have a hearing notice from the Judiciary Committee for Wednesday, January 17. That is signed by Senator Chizek. (Re: LB 880 and LB 942.)

And the last item, Mr. President, lobby report for November 18 through January 8, 1990. Mr. President, at this time I have nothing further pending to the Education Committee amendments.

SPEAKER BARRETT: Thank you, Mr. Clerk. Senator Withem, would you care to discuss the committee amendments, please?

SENATOR WITHEM: Is this to open the discussion to debate or to close? Are there other lights on?

SPEAKER BARRETT: This is a discussion on the committee amendments. Would you care to...(interruption)

SENATOR WITHEM: I believe I was introduced earlier for my ten minutes to discuss them, so I will just wait and see if other people wish to discuss them and then...

SPEAKER BARRETT: There are no other lights on at the present time. If you'd like to refresh our memories with your earlier discussion, perhaps this will generate some debate.

January 31, 1990

LB 942
LR 8

SENATOR KRISTENSEN: Thank you. We've got the opportunity right now to place in the Constitution a large change. Senator Chambers is right, this is an important change. But what this change does is gives us the flexibility not to deny people the right to appeal, I'd be the first one that would not want to deny the right of appeal. But we can't have every case go into the Nebraska Supreme Court, because we're going to drown. We've got to allow some system to have people's rights redressed, and to do that swiftly. And the only way to do that is to establish an intermediate court of appeals. And I think next year I'll bring a bill back that probably is going to be somewhat similar to what's in Judiciary Committee right now, LB 942, and we're going to have this debate, the true debate on the floor as to how those rights should look, and what that court is going to look like, and who should go to the Supreme Court, because that discussion isn't one that we ought to just place in the Constitution.

SPEAKER BARRETT: Time.

SENATOR KRISTENSEN: Thank you, Mr. Speaker.

SPEAKER BARRETT: Thank you. Senator Wehrbein, further discussion on the motion to indefinitely postpone.

SENATOR WEHRBEIN: Yes, Mr. President, members. I oppose the kill motion. It's simply, I think, to make the case, in my mind, that we do have a backlog. But, as I understand it, it's primarily...the ones that are getting left, in many cases, are civil cases. Most criminal cases, I understand, are being taken care of and taken care of properly today. I hear some of the arguments that Senator Chambers is making. And, if I could come up with a better way to screen those going into the Supreme Court and still reduce the backlog, I guess I would be receptive. As I see it now I don't see a better way, and I think we have to do something for all of those other cases that are waiting up to two years for their redress in court. It just seems to me that we need to move along and keep tuning this process so that they are treated fairly. But I believe we have to look at all segments of our society being able to get proper redress in the Supreme Court and not just those that have priority, as it is the case now. Just seems to me we need to move ahead and, as Senator Kristensen said, we can refine this next year in statute so that all citizens of society are treated fairly and that those now presently waiting on this backlog can

January 31, 1990

LB 942
LR 8

that direction and guidance will not be there. So you will have one type of justice in one part of the state, another type of justice in another part of the state and you won't know why because the judges are not required to write their opinions. Farmer Brown was unfairly ruled against in the district court, so we reverse and Farmer Brown wins.

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: Farmer Smith, on the other side of the line, sitting before...coming before another panel, fails, and yet his or her case was what the lawyers say was on all fours with Farmer Brown's case before the other panel. There is a conflict. Which one should go to the Supreme Court, which one should be considered right? There is nothing in this constitutional amendment to deal with that. There is nothing in LB 942, that bill before the Judiciary Committee, to deal with that. Everybody wants to say we'll put these matters off until a future date, which means they will never be dealt with. So my amendment would call these courts what they are, the top court is the "big-shot" court, the peon's court for the insignificant, unimportant citizens would be the "peon" court. And I mean these...I'm offering this amendment very seriously and I hope you will vote in the affirmative for it.

SPEAKER BARRETT: Thank you. Senator Chambers, there are no other lights on, would you care to make a close, please.

SENATOR CHAMBERS: Yes, I would. And I'm not going to turn my light on to speak again, because I know the dye is cast and I know what's going to happen with this proposed constitutional amendment. But I find it so abhorrent, I find it so distasteful that it has been difficult for me to resist the temptation to do all I can to keep it from getting on the ballot. But in view of the fact that we've had a chance to get certain things into the record, I want it, if it gets on the ballot, to go with a record of those who voted to put it there. Those who went on record saying, by their vote, being, as the lawyers say again, well informed in the premises, or something like that, to take away the rights that citizens currently enjoy under the Constitution. And I'm going to bring this up from time to time during the session when other bills are brought that are designed to look out for the interests of certain economic groups and others who have power in this state. And I'm going to watch the political posturing as people talk about the rights of the people needing