

January 23, 1990

LB 260, 769, 887, 902, 1113
LR 246

to have these questions come out, we love to answer them. The specific question...

PRESIDENT: Time.

SENATOR LINDSAY: ...is dealing with confidentiality. It does say they are confidential, it does say they are anonymous. I would challenge Senator Landis to obtain copies for me any juvenile court file he wants to see, or any Board of Mental Health commitment he wants to see, or any other child abuse case he wants to see. We have confidential cases right now in current law and we don't hear the objections to those. I think the procedures are there. I think these are the kinds of questions...I'd love to get into the meat of the bill, but unfortunately we're stuck in a quagmire of procedural problems. Those are the kind of things that we'd love to make that legislative history so that the bill can work properly, so that some of the problems that we're running into can be answered in advance. Returning it to a committee, that's another step to cause some more time to be used. I don't think it needs to be referred to committee. We had it there once. The....a lot of the testimony had nothing to do with the bill.

PRESIDENT: Time.

SENATOR LINDSAY: If we wa....Thank you, Mr. President.

PRESIDENT: Thank you. Senator Labedz, you're next, but the Clerk would like to put a couple of things into the record, please.

CLERK: Mr. President, Transportation Committee, to whom was referred LB 887, instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; and LB 902 to General File. Those signed by Senator Lamb. (See page 473 of the Journal.)

New resolution, LR 246, offered by Senator Kristensen and a number of the members asking the Legislature to commemorate the bicentennial of the first meeting of the United States Supreme Court. (See pages 473-74 of the Journal.)

Senator Conway would like to print amendments to LB 260. And, Mr. President, Senator Chambers would like to add his name to LB 1113 as co-introducer. That's all that I have,

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LB 836, 956, 985, 1016, 1017, 1241
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PRESIDENT NICHOL PRESIDING

PRESIDENT: Ladies and gentlemen, welcome to the George W. Norris Legislative Chamber. We have with us this morning as our Chaplain of the day, Pastor Stan Schrag of the Grace Community Church in Lincoln. Will you please stand for the morning prayer.

PASTOR STAN SCHRAG: (Prayer offered.)

PRESIDENT: (Gavel.) Thank you, Pastor Schrag, we appreciate your being here this morning. Come again. Roll call, please.

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

PRESIDENT: Thank you. Any corrections to the Journal?

CLERK: Mr. President, I have no corrections this morning.

PRESIDENT: Do you have any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Banking, Commerce and Insurance whose Chair is Senator Landis to whom was referred LB 1016 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File, LB 1017 General File, LB 956 General File with amendments, and LB 985 as indefinitely postponed, those all signed by Senator Landis as Chair of the Banking Committee, Mr. President.

I have notice of hearing or cancellation and rescheduling of a bill, signed by Senator Landis as Chair of Banking Committee. (Re: LB 1241. See page 495 of the Legislative Journal.)

Amendments to printed to LB 836 by Senator Landis, and, Mr. President, I have a report from the Department of Roads filed pursuant to statute. That will be on file in my office. (See page 495 of the Legislative Journal.) That is all that I have, Mr. President.

PRESIDENT: Thank you. We will move on to LR 246.

CLERK: Mr. President, 246 is a resolution offered by Senator Kristensen and a number of other members. It is found on page 473 of the Journal. It asks the Legislature to join in commemoration of the bicentennial of the first meeting of the

United States Supreme Court.

PRESIDENT: Senator Kristensen, please.

SENATOR KRISTENSEN: Thank you, Mr. President, and members of the body, it is my great pleasure to help co-sponsor this resolution that you will find on page 473 of the Journal. This commemorates the 200th anniversary of the meeting of the U.S. Supreme Court, which happened in February, and the official ceremony will be February 2nd. However, in Nebraska, we are going to commemorate that celebration this afternoon at four-thirty in the Supreme Court Chambers here in the Capitol and you are all very welcome to come and join in that commemoration celebration of this event. The actual celebration really comes about because of Article III of our U.S. Constitution in which there are three brief sections that creates the federal judiciary. And it is very fitting that during our discussions while the Legislature is in session that we commemorate this opening of the United States Supreme Court and its survival for 200 years, and it is part of the bicentennial celebration of our Constitution, but this year will be the year of the judiciary, and there will be celebrations all throughout the country, and the resolution is very straightforward, very easy. It emphasizes the fact that there was a meeting 200 years ago, and asks the Legislature to join in the commemoration of the bicentennial of the first meeting of the United States Supreme Court, and with that, I urge its adoption. Thank you.

PRESIDENT: Thank you. I have several lights on and I think you wish to talk about the bill that is coming up. Is there any further discussion on this resolution? Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, and members of the Legislature, I can certainly understand what Senator Kristensen and the co-sponsors of the resolution intend to do by offering it. I can certainly understand a desire on the part of those who feel that the Constitution and the court systems have protected them. I can understand their wanting to commemorate 200 years of that activity, and want to have a celebration. But when you have a country such as this one where the very Constitution upon which it is founded not only excludes certain people but demeans them and declares them to be for certain purposes less than a human being, it has to be understood that there are differences of opinion and different reactions to activities of this kind. The

United States Supreme Court is presently constituted with Rehnquist, whom Richard Nixon, when he was appointing him, asked who is this S.O.B., Renschberg, but he appointed him anyway because they told him he has the proper troglodytish mentality. He will help you, Mr. Nixon, and those who follow you, in rolling back the tide of civil rights and civil liberties. He is in favor of the government having the upper hand over the citizen. In any controversy between the government and any citizen, the government must be allowed to prevail if through any twisting of the Constitution, stretching of a statute, or annulling of a statute that result can be achieved. When you speak of the Supreme Court as an abstraction or in academic terms, then you can become sentimental and think of it as the final bulwark against excesses of and by the government. But when the Supreme Court becomes the handmaiden to the government in various oppressive activities, then it ought to be criticized. There is nothing in the resolution that refers specifically to the present Supreme Court, which has seen as its duty the ruling against those people who have traditionally looked to the courts for protection of and vindication of their rights, rights guaranteed by the Constitution, supposedly; further buttressed by enactments of Congress, allegedly. Discrimination based on race and gender are compatible in a lot of instances with the Constitution of the United States based on the attitude of the majority who make up the present Supreme Court. When you talk about the Constitution, people of my ancestry must read that document differently from the way people of your ancestry would read it. There is nothing in the Constitution, as written, which says that for purposes of representation you shall constitute three-fifths of a human being. That is the first reference to people of my kind. There is no provision in the Constitution that guarantees the importation of your people to be enslaved and bred like cows, pigs, and chickens, as there is in the Constitution relative to my kind. There is no provision in the Constitution which says if you are being held as a piece of property and you have the temerity and the wherewithal to escape to a state where that is not the practice, you must be given up by that state to be returned to shackles, the lash, and to that unending night of human slavery, but that exists in the Constitution with reference to my people. Then in Article V of the U.S. Constitution, there is a provision which probably nobody on this floor is aware of and certainly the people who explained the Constitution to me when I was in school never informed me of.

PRESIDENT: One minute.

SENATOR CHAMBERS: There is only one provision in the U.S. Constitution which the Constitution, itself, said could not be amended, and if you read Article V, it says, that should the Constitution be amended in any fashion before 1808, Article II, Section 9 cannot be amended, and Article II, Section 9 is the one that guarantees the importation of my people to be slaves. And slaves helped build this country. They dug precious metals from the ground. They cultivated crops. They did every manner of menial and skilled work without one dime in compensation, not one red cent in compensation. And while reparations are given to the Japanese-Americans who were improperly incarcerated by this country during the war, there has never been a delivery on the promise made to black people that with the ending of slavery we would be given the traditional 40 acres and a mule. Nobody has been treated consistently in this country with the disdain and the injustice that my people have been treated. So it is my responsibility when these types of measures come before us to speak and offer some perspective and show that one of the problems of having what they call a pluralistic society is that there will be those who will remind this country and its representatives of those practices and activities of which it definitely should not be proud and whose remnants it should try to rectify but which it does not.

PRESIDENT: Thank you. Any further discussion? Did you wish to speak again, Senator Chambers. Okay.

SENATOR CHAMBERS: Mr. Chairman, and members of the Legislature, I was going to offer an amendment but I don't think I will do that, and I will tell you the way I had intended to amend this resolution. In the fourth whereas, which says, "Whereas, the U.S. Supreme Court interprets and construes the United States Constitution", I was going to add words to the effect, "and in present times has interpreted and construed the Constitution so as to deprive black people of rights and privileges guaranteed by that Constitution." But I won't offer it as an amendment because Senator Kristensen is as serious as a heart attack about his resolution, and I can understand that. Had this country been to me what it has been to white people, I probably would have added ten more whereas glorifying the country, the government, the flag, and the Constitution. But think about it a minute. If I and my people are, indeed, citizens of the

United States and entitled to every right and privilege of that status, why has there had to be so many enactments of Congress for black people; why have there had to be so many presidential proclamations supposedly addressed to remedying the discriminations faced by my people; why have there had to be so many court decisions? Because we, in fact, even though it is stated that we in law, we are not deemed citizens in this country. We are not viewed as full-fledged human beings in this country. If you read the amendment to the Constitution that gave everybody of my ancestry the right to vote, why is it necessary in the mid-sixties to enact a congressional law guaranteeing my right to vote. I thought the Constitution was the law of the land. I have never seen where white people have had to get their limbs literally broken, their heads fractured to sit down at a lunch counter when they are hungry to order a greasy hamburger. I have never seen a law of Congress or an interpretation by the Interstate Commerce Commission that ruled that white people traveling in interstate commerce cannot be denied public accommodations, access to public accommodations while they are traveling in interstate commerce. Imagine how you must feel if the only way certain of your rights can be vindicated is through the commerce clause where they seem to have that carry-over of thinking of you in terms of a commodity rather than a human being. Who can deny a person a glass of water if he or she is thirsty? White Christian Americans. Who will beat and break the limbs of young black children? White Christian Americans. Who will deny residential accommodations to black people? White Christian Americans. What has happened to us has not happened to us at the hands of the Vietcong, not at the hands of the Russians, who, by the way, are not deemed to be such bad fellows and ladies anymore, not at the hands of anybody other than white Christian Americans. So there, indeed, are two societies in this country, one white, and one black, and today that white element is going to honor its Supreme Court which has done so much to ensure them their rights and so much to deny me and my kind our rights.

PRESIDENT: One minute.

SENATOR CHAMBERS: It is with great bitterness that I read of and observe these types of commemorations. If the vestiges of slavery and discrimination were no longer here, then I could join in, and when people use that term "my fellow Americans", I would feel it encompasses me. But in the same way that the Declaration of Independence which talked of all people having

certain inalienable rights not including me, the Constitution not including me for purposes other than to declare me to be a slave and worthy of nothing better, if that were not the case, then I would feel the same glow of patriotism and that the people on this floor feel when the flag is trotted out, when the Constitution is invoked, when the Supreme Court is lionized. But the fact is that different circumstances which must be faced cause in people different reactions.

PRESIDENT: Thank you. Senator Kristensen, would you like to close?

SENATOR KRISTENSEN: Thank you, Mr. President. I think that the Constitution, obviously, doesn't solve our problems but it allows us the freedom and opportunity to try to attempt to solve those problems, and with that, I would urge the passage of this resolution, and, again, remind the body and invite the body to the ceremony that will take place this afternoon at four-thirty in the Nebraska Supreme Court Chambers. Thank you.

PRESIDENT: Thank you. The question is the adoption of the resolution. All in favor vote aye, opposed nay. Record, Mr. Clerk, please. A record vote has been requested.

CLERK: (Record vote read. See pages 495-96 of the Legislative Journal.) 26 ayes, 1 nay, Mr. President, on adoption of LR 246.

PRESIDENT: The resolution is adopted. Move on to LR 247.

CLERK: Mr. President, 247 was introduced by Senators Smith and Haberman. It is found on page 488 and it asks the Legislature to express its condolences to the family of former Senator Clarence Jacobson.

PRESIDENT: Senator Smith, please.

SENATOR SMITH: Thank you, Mr. President. Members of the body, former Senator Clarence Jacobson was my predecessor representing District 33 from November of '82 through January of 1985. Senator Jacobson was involved in the community and the state until the time of his death in January, on the 17th of 1990. He loved and remained a part of government until that date and was actively involved until that time. In fact, he was raised in a family that was always involved in politics. His father served in the Legislature from 1917 to 1919 as a member from Lexington,

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has amendments; Senator Scofield to LB 610, LB 662 and LB 369. Senator Goodrich has amendments to LB 503A. Mr. President, I believe that's all I have at this time. (See pages 500-06 of the Legislative Journal.)

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 246. Now, where are we? We are back to discussing ceasing debate on the Chambers amendment to the Schimek motion. And the question is, of course, shall debate cease? Senator Landis, your light is on first. Senator Langford made a motion to cease debate. So we must act on that first to cease debate. And the question is, shall debate cease? All those in favor vote aye, opposed nay. Have you all voted? Senator Langford, please.

SENATOR LANGFORD: I guess we better have a call of the house, please.

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

CLERK: 9 ayes, 2 nays to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please record your presence. Those not in the Chamber, please return to the Chamber. Please return to your seats and record your presence, please. Please record your presence. Looking for Senator Pirsch, Senator Robak, Senator Lamb, Senator Bernard-Stevens, Senator Goodrich. Senator Langford, do you wish to authorize call ins, or did you want a roll call? Okay. Roll call vote has been requested, in reverse order. Senator Goodrich, will you record your presence, please. Thanks. Senator Lamb we're looking for now. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, would the...do the rules allow when we're under call to seek all those who are not here and compel their attendance? I'm just asking, and this is not for the purpose of challenging what you said. I'm making an inquiry as to the status of the rules.

PRESIDENT: As I recall from memory, yes, you may wait for them and, yes, you may demand that they come back.

SENATOR CHAMBERS: That's what I want.