

February 27, 1973

CLERK: Senator Whitney voting aye.

SPEAKER: The Clerk will record.

CLERK: 34 ayes, no nays, 16 not voting.

SPEAKER: The bill advances.

CLERK: Mr. President, we have some motions, if you don't want to revert to those. Motion (read).

SPEAKER: Senator Luedtke.

SENATOR LUEDTKE: Mr. President, members of the legislature, the five requests which you have on your desk, they are stapled together, are requests of the Judiciary Committee for introduction of these five bills. They are bills which have been requested by the Judicial Council of the state of Nebraska, every year the Judicial Council meets, prepares bills, we asked them to hold off this year until the 20 day limit had passed with the understanding that the Judiciary Committee would introduce these bills and we have them before you. I can answer questions concerning them, I'll just tell you what they are, so that you can know what we are doing, the first one if you will look at the, let's see how are these together. The first one you have is stapled together is the bill that provides for any one who intends to rely on the defense of insanity must notify the county attorney of that fact not less than 10 days before trial. This is a bill which Federal rules of procedure has in it and which the state of Nebraska is trying to conform itself as much as possible. One of these days we should have all the Federal rules of criminal procedure. This is the one that says if you are going to use this defense, you must give notice to the other side that you are going to use it, and the state may have the defendant examined by not less than one nor more than three experts. Of course, the other side can also have an examination made, and this is preliminary to the trial, otherwise, what happens is they come to the trial, then they use defenses of insanity and then you delay the whole trial, or the jury is already in the box, then they delay the trial for an examination, this speeds up the process of justice and makes it fair to both sides. The next one as you have it in your, I'll go right down the line, the next one is to allow the use of audiovisual or vido tape means for presentation of deposition testimony, this is to use modern means of discovery and of deposition. For example, if you have a doctor in Omaha, and a case in Scotts Bluff, let us say, the doctor can not come to Scotts Bluff, he can take his deposition, both the attorneys can be there and take his deposition by vido tape which is then played in the court room which uses the modern means so you don't have to bring the doctor into the court room. This is properly certified, and this has also been recommended by the Judicial Council. The next one is if in a felony case, an individual intends to rely on alibi as defense, in other words, he says I was some place else, so that the prosecuting attorney may check it out in order to speed the trial along, they must also within ten days get, have notice of the fact and let them be able to have that fact checked out. This was introduced by the way, into the Judiciary Committee last year, and died because of the bills that were left in committee at the end of the session. The next one is a bill to establish a district public defender system, procedures for the election of a state public defender and a district public defender. Now this came about as a result of the supreme court opinion particularly on misdemeanants which require that there be legal counsel for those who are charged, even with a misdemeanor, it is, if they're indigents, do not have money, the United States Supreme Court says they must be given a defense attorney. This has caused all kinds of havoc in many places of the state of Nebraska where