

April 8, 1974

SENATOR WHITNEY: Thank you, Mr. President. Now, I have another amendment to strike the new matter in Section 6 of LB894. I have received an Attorney General's opinion that this portion of this bill is unconstitutional. The first indication was the 1967 when this was passed and I want to refer to the Constitution of the State of Nebraska. You all have it there in your drawers. On page 30, it says that the following funds shall be used exclusively for the support and maintainance of the common schools in each school district in the state. And so, since it says this in the Constitution, it means that any new improvements on school lands cannot be made on the basis of the Constitution of the State of Nebraska. All of the money from the rents, all of the money from interests on earnings from school lands, according to the Constitution of the State of Nebraska, must go back to the schools excepting for administrative costs. And the Attorney General says that new improvements are not administrative costs. They're different things and therefore, since this is the case, then I ask for this amendment. Why? Simply because what is attempted here is unconstitutional according to the Attorney General.

CLERK: Mr. President, we have a motion on the desk to amend the Whitney motion. To strike the Whitney motion and insert the following amendment: "There is hereby appropriated \$650,000 to Agency 32, Board of Educational Lands and Funds, to the land improvement fund, which is hereby appropriated, for the purpose of carrying out the provisions of this act." Signed, Senator DeCamp.

PRESIDENT: Now wait a minute, stand by just a minute here. Senator DeCamp, this is going to be a little difficult but the Chair's going to rule your motion out of order because you're asking to strike Senator Whitney's motion and substitute something else for it. It seems to me that the Body has got to consider what you're going to propose and what he's proposing and vote them up and down separately rather than to go into an amendment to his amendment on this in this particular instance.

SENATOR DE CAMP: It doesn't matter which way you want to do it.

PRESIDENT: Okay, I'm going to rule that the motion's out of order but go ahead and speak on your motion because it's a point to be made.

SENATOR DE CAMP: Okay, well, I'll speak on his amendment.

PRESIDENT: Well fine, thank you, that's right, on his amendment.

SENATOR DE CAMP: Senator Whitney has said it's unconstitutional, you have at this moment being passed out a rather detailed legal brief that explains why it's constitutional and this has been read by the Attorney General who wrote the opinion he refers to. That Attorney General has stated he has no disagreement with it whatsoever. The confusion is what is involved in the cost of administering lands. Senator Whitney, as I say, it's a fine technical point, but the issue is, we have a half of one billion dollars worth of school lands and no money or no procedure is available for maintaining these lands. For example, if fences get broke down or the land is eroding and being destroyed, no provisions exist in the law for the maintenance of these lands. It would be like if the