

April 30, 1981

LB 466

SPEAKER MARVEL: The motion is carried. The next item is item #6, Select File. The Clerk will read.

CLERK: Mr. President, we last considered LB 466 on Select File on April...well, the E & R amendments were adopted on Select File on April 10. There was a motion to indefinitely postpone offered. That laid the bill over. That motion was subsequently withdrawn. There was an amendment adopted by the body on April 24 offered by Senator Labeledz. After that a motion by Senators Fowler and Landis to indefinitely postpone the bill. That is what is pending at this time, Mr. President.

SPEAKER MARVEL: Senator Fowler.

SENATOR FOWLER: Mr. President, I was thinking that we could withdraw this and offer it on Final Reading, but I think maybe we will take it up on Select File. I have filed a motion, Senator Landis and I, to indefinitely postpone LB 466 in its current form with the amendments of the Health Committee. I understand that there are other amendments filed to add things to 466. If this motion fails, those things are added, then perhaps the Health and Welfare Committee will have to have another hearing on the bill. I think perhaps we should just go back to ground one and start over with this legislation. Briefly, I wish to draw to the attention of the Legislature two Attorney General's Opinions with regard to LB 466 and to cite those. We go through a ritual in this Legislature with regards to abortion legislation, and that ritual is that legislation is introduced, Attorney General's Opinions tell us it is unconstitutional in part if not in whole, we go ahead ignore those opinions, pass the bill, have it challenged in court, the court...there is an injunction, the law is not enforced, it really does nothing. We go through the Federal District Court in Lincoln, maybe get to the Eighth Circuit Court in St. Louis. The judges throw out the sections that the Attorney General identified as unconstitutional, and we come back in and we have another abortion bill, and again the Attorney General says that it is unconstitutional. We go ahead and pass it. It goes to the District Court here, goes to St. Louis, gets thrown out, comes back, and at a certain point perhaps after eight, nine years of this ritual I would think this Legislature might get tired of paying the costs of defending unconstitutional legislation. Now there is one twist in the story with regards to 466, and that is that it is unconstitutional according to the Attorney General based on our state Constitution and not based on issues that relate to the constitutionality or appropriateness