

May 1, 1981

LB 228

for use by criminal defendants. The committee felt that because in the case of a witness who is there for the convenience of the state, the committee didn't feel that it was fair to retain 10 percent of the posted amount for administration purposes. Once again, the remainder of the committee amendments are technical. I move for the adoption of the committee amendments.

SPEAKER MARVEL: The motion is the advancement of the...or the adoption of the committee amendments. All those in favor of that motion vote aye, opposed vote no. The number of the bill is 228. We are in the process of adopting the committee amendments as explained by Senator Nichol. Have you all voted? Record the vote.

CLERK: 26 ayes, 0 nays on adoption of the committee amendments, Mr. President.

SPEAKER MARVEL: The committee amendments are adopted. Senator Landis.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, LB 228 has been in the legislative basket for two years running. It died because it did not have a priority spot last year, but it did get a good hearing by the Judiciary Committee. This time the committee sent it out unanimously and that is why it is here before us. It is the recommendation of a committee formed two years ago, the LR 154 Committee. That included Senators DeCamp, Vard Johnson, Senator Chambers, Senator Dworak, Senator Schmit and Senator Fowler and myself, and it was just one of the several recommendations that year. It rests essentially on two legal problems which surfaced a couple of years ago. The first was a case of about...of the jailing of some material witnesses. Material witnesses are not people charged with crimes but they are people who observe crimes or have information about crimes that a prosecutor needs to make a case. Sometimes these people are not very forthcoming in an attempt to participate and help along the prosecution of a criminal. Perhaps the prosecutor fears that the person, if left on the streets, will suddenly take a quick vacation to New Mexico. Material witnesses then, under a section of Nebraska law, can be jailed and kept against their will in a jail in custody until such time as they can participate in the legal case against the charged alleged convict or criminal. Material witnesses again, I repeat, are not people charged with crimes. They are people used to participate in the prosecution of some other party. We have had for years, for decades, a material witness statute. That statute is unconstitutional on its face. It distinguishes between women and men for one thing. It