

May 1, 1981

LB 344, 411

reviewing the committee amendments, it gives the defendant a right to appeal to the Supreme Court a ruling on say his motion to suppress evidence if it is unsuccessful from the defendant's point of view. Now if we have a backlog of 14 months, let's say, in the Nebraska Supreme Court, and I understand that backlog is increasing because there are more appeals filed than there are cases decided every month, what would prevent a defendant from using that as a delaying tactic? In other words, filing a motion to suppress evidence, a confession or physical evidence of some sort, having that denied by the court then taking an appeal to the Nebraska Supreme Court and that way having his criminal trial delayed for 14 months while the Nebraska Supreme Court handles that?

SENATOR SIECK: I am going to refer that question to Senator Nichol, because I think he can more capably answer it.

SENATOR NICHOL: Well, Mr. Chairman, I would just say this, whenever you ask for an appeal you take your chance on whether you will get a speedy trial or not. If you don't want to ask for an appeal, why you can have it now. If you do, you may risk the chance of having a speedy trial, that's true.

SENATOR HOAGLAND: Yes. But I mean...I don't want to take a lot of time, but in most situations the defendant is not locked up pending trial, so it's in his interest just to delay the thing as long as possible hoping a witness will move out of town or will pass away or something. Well, we can talk about this on Select File, perhaps.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The motion is to advance the bill. All in favor of advancing 411 to E & R for Review vote aye, opposed vote no. Have you all voted? Have you all voted? Record.

CLERK: 25 ayes, 0 nays on the motion to advance the bill, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. The next bill is 344.

CLERK: Mr. President, LB 344 offered by Senators Landis and Koch. (Read title.) The bill was read on January 19, referred to Public Works, advanced to General File with committee amendments attached, Mr. President.

SPEAKER MARVEL: Senator Wesely.

SENATOR WESELY: Mr. Speaker and members of the Legislature,