

May 27, 1981

LB 213

PRESIDENT: Okay, so it is withdrawn. It is withdrawn. Okay, thank you. LB 213.

CLERK: Mr. President, the first motion I have on LB 213 is offered by Senators Nichol and DeCamp. They move to return the bill for a specific amendment. The amendment is found on page 2086 of the Journal.

PRESIDENT: The Chair recognizes Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I apologize again as several have in the last few days for bringing this up at this time. I made a mistake. I should have done this on Select File. I thought perhaps something could be worked out but it has not. It has been a long time since I jumped out in front of a speeding locomotive but I feel as chairman of the Judiciary Committee I have the responsibility of placing a few things in the record on 213. At the March 4 public hearing of the bill only five people testified. Two of the bill's sponsors and a representative of the Nebraska PTA testified in favor. One attorney representing the Department of Public Institutions favored the bill only with substantial amendments. One mental health professional opposed the bill on behalf of the Nebraska Psychiatric Association. Not one prosecutor, not one judge, not one member of the law enforcement or legal community appeared to testify as to the need for this legislation. In addition to the lack of input at public hearings, this bill has not received ten minutes of debate on the floor of this Legislature. I would remind the members of this body that a murder trial in which the insanity defense is raised is the legal equivalent of brain surgery. You can operate in this area only if you know what you are doing and only at the risk of grave consequence if you don't know what you are doing. I don't think there are five members of this Legislature that fully understand the possible ramifications of this bill. As originally drafted this bill was patently unconstitutional and technically defective. In its present form it remains constitutionally suspect and the question raised by the Attorney General as to its constitutionality have not been fully addressed by the amendment. There remains a substantial difference in the commitment standards which will be subject to serious constitutional challenge. Contrary to the opinion of the general public, in the eyes of the law and under our constitution, these deranged people are not criminals. In the eyes of the law and under our Constitution, no criminal offense has been committed. The commitment following an acquittal is a civil case, not a criminal case and again, under our system of laws and Constitutions, we have to treat people of the same class substantially the same.