

March 4, 1982

LB 724

And now the case is filed under LB 724 in the Nebraska Supreme Court and it just kind of languishes there, and so my client...so so far no court has ever decided my client's case. So I say what I had better do is I had better put some time limits in here because I can appreciate the need to at least allow the Nebraska Supreme Court to look at some of these state law questions. So I said...what I do is I give the Nebraska Supreme Court sixty days. They have got sixty days after another state court, either another state court or else the federal district court certifies a question to the Nebraska Supreme Court, they have sixty days to decide whether they are going to take the question. Okay, and at the end of sixty days if they have not acted, then their not acting is deemed to have been a decision not to take the question. So that means the case then proceeds in whatever court it was originally in. So that is one portion of the amendment. The other portion is that with respect to these certified law questions the Supreme Court shall affect what I call an expedited briefing and hearing process, meaning simply that they will tell the litigants to work quickly to get their briefs written and they will set up a quick oral argument so that people won't be stuck in the court processes too long by virtue of the case being certified to them. Finally the amendments say that this procedure, the certification procedure is a fine procedure with respect to federal actions being certified to the Nebraska Supreme Court but not in respect to actions from other state supreme courts being certified in the Nebraska Supreme Court. Now the reason I did that is because by and large most federal cases that are being certified will be federal cases in Nebraska being certified back down to the Nebraska Supreme Court, whereas obviously other state court cases being certified could come from New Jersey and New York, Massachusetts, California, what have you, certified into Nebraska, that means that New Jersey, New York, Massachusetts and California lawyers have got to come to Nebraska and have got to take care of the case. We have a body of law known as the conflicts of law. The function of that body of law is essentially to enable courts of other states to figure out what law to apply to a question from other states and go ahead and decide the case. So I felt that it was not good policy to allow questions to be certified in from other state courts. It is a good policy to allow them to be certified in from the federal system but not from other state courts. So my amendment does three things: It removes the language allowing the certifying of cases in from other state courts. It requires the Supreme Court to act at least in deciding whether or not to take a certified case within sixty days

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