

doesn't solve it because there is no magic door. We as a body are going to have to deal with this problem. I think it makes no difference if we vote for the Hall amendment or if we don't vote for the Hall amendment. I think it makes no difference if we pass LR 186 or if we don't pass LR 186. I'm not going to vote for LR 186 because I don't think it does what we need to do and what we need to do is grab ahold of the problem honestly, forthrightly, read what the Supreme Court has to say and act like a Legislature that has been sent down...

PRESIDENT MOUL: Time.

SENATOR WITHEM: ...here to solve problems.

PRESIDENT MOUL: Thank you, Senator Withem. Senator Warner. Senator Landis.

SENATOR LANDIS: Madam President, members of the Legislature, the 14th Amendment has never been used to strike down a Nebraska statute. Senator Withem's point that he just made very eloquently is simply, factually not the case. The court has always used the State Supreme Court, the State Supreme Court has used the state Constitution with which to find our tax system at risk. The methods are somewhat similar, but the federal 14th Amendment has not been used to strike down our tax code. Our state Constitution has been. As a matter of fact, federal courts have very broad latitude with respect to state tax policy. The 14th Amendment has a very limited application to state tax law policy because the state, the federal courts, when using the 14th Amendment say, is there a rational distinction? Is there a rational basis? And all that has to be shown is that there is a rational basis for tax policy. Now we have failed to meet that test in the past, but that test has been applied under our state Constitution and we have not come to grips, it's true, with the question that Senator Withem says we face, but we've never faced that question in the court. The court has on occasion raised that specter, but that's not been the basis upon which our tax code has been found wanting. Our tax code has been found wanting on the basis of that document that you and I in conjunction with the people of this state control, and that's the state Constitution. It is true, that if we plumb the depths of our constitutional, state constitutional matters and can't sell the problem and find ourselves afoul of the 14th Amendment, we will have all the doors closed. On the other hand, the court has never done that and we don't have to face solving the