

January 15, 1981

LB 193-222

rules which the motion is before the desk.

SPEAKER MARVEL: Any further discussion? All those in favor of that motion vote aye, opposed vote no. Have you all voted? The motion is the Wesely motion. Have you all voted? Record the vote.

CLERK: 25 ayes, 10 nays on adoption of the permanent rules, Mr. President.

SPEAKER MARVEL: The motion is carried and the amendment is adopted. Senator Cullan wants to meet with the Public Health and Welfare Committee underneath the south balcony. Is that right, Senator Cullan? What is the next item?

CLERK: Mr. President, I have a series of matters to read in, if I may. First of all, Senator DeCamp offers a proposed rule change which will be submitted to the Rules Committee for their consideration. (See pages 180 and 181 of the Legislative Journal.)

Mr. President, new bills: LB 193 (Title read). LB 194 (Title read). LB 195 (Title read). LB 196 (Title read). LB 197 (Title read). LB 198 (Title read). LB 199 (Title read). LB 200 (Title read). LB 201 (Title read). LB 202 (Title read). LB 203 (Title read). LB 204 (Title read). LB 205 (Title read). LB 206 (Title read). LB 207 (Title read). LB 208 (Title read). LB 209 (Title read). LB 210 (Title read). LB 211 (Title read). LB 212 (Title read). LB 213 (Title read). LB 214 (Title read). LB 215 (Title read). LB 216 (Title read). LB 217 (Title read). LB 218 (Title read). LB 219 (Title read). LB 220 (Title read). LB 221 (Title read). LB 222 (Title read). (See pages 181 through 188 of the Legislative Journal.)

Mr. President, in addition your Committee on Business and Labor gives notice of public hearing for Wednesday, January 28. (See page 189 of the Legislative Journal.)

Mr. President, communication from the Chairman of the Executive Board which will be inserted in the Legislative Journal. (See page 189 of the Journal.)

Mr. President, I have an Attorney General's Opinion addressed to Senator Beutler regarding deferred compensation funds which will be inserted in the Legislative Journal. (See pages 189 through 192 of the Journal.)

SPEAKER MARVEL: May I have the attention of the members of the Legislature for just a second. I think the last few days have been tough on all of us. I think we are all

February 24, 1981

LB 14, 24, 31, 33, 41,
45, 46, 64, 81, 82,
85, 96, 120, 121,
130, 14, 158, 213

SPEAKER MARVEL PRESIDING

REV. JOSEPH A. MROCZKOWSKI: Prayer offered.

SPEAKER MARVEL: Will you please record your presence?
Record.

CLERK: Quorum present, Mr. President.

SPEAKER MARVEL: Underneath the North balcony, it is my privilege to present visitors to Nebraska sponsored by Partners of the Americas and the sponsors are Mrs. Ben Schulze and Gilbert Erickson and the visitors are coordinated with Dr. Fortes and his wife Maranna and the technical title is the Coordinator of Congressional Affairs for the Ministry of Education and Cultural Affairs from Brazil. Would you folks please stand so we can welcome you to the Unicameral. Okay, there is some items on the Clerk's desk and we will start with those.

CLERK: Mr. President, a communication from the Governor addressed to the Clerk regarding signing of LBs 14, 18, 41, 45, 46, 64, 81, 82, 121, 130 and 140. (See page 639 of the Legislative Journal.)

Your Enrolling Clerk respectfully reports that she has on February 23 at 2:37 p.m. presented to the Governor the following bills: 31, 33, 85, 96 and 120.

Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined LB 24 and find the same correctly engrossed.

Your committee on Appropriations whose chairman is Senator Warner to whom is referred LB 158 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendment, (Signed) Senator Warner, Chair.

Mr. President, I have a report from the State Employment and Training Council. It will be on file in my office.

Mr. President, Senator Cullan asks unanimous consent to add his name to LB 213 as coinstructor.

SPEAKER MARVEL: Do you have any other items?

CLERK: No, sir.

SPEAKER MARVEL: Okay, item #4, resolutions.

March 25, 1981

LB 284, 213

Wiitala, DeCamp, Johnson, Beutler and Newell all ask to print amendments to 284.

Senators Cullan, Pirsch, Hoagland and Hefner move to place LB 213 on General File pursuant to Rule 3, Section 18(c). That will be laid over.

SPEAKER MARVEL: Senator Maresh, do you want to adjourn us until tomorrow morning at 9:00 a.m.

SENATOR MARESH: Mr. Speaker, I move that we adjourn until 9:00 a.m., tomorrow morning, March 26th.

SPEAKER MARVEL: All those in favor of that motion say aye, opposed no. Motion is carried we are adjourned until 9:00 tomorrow morning.

Edited by

Arleen McCrory
Arleen McCrory

April 6, 1981

LB 412, 36, 213, 483, 486

have real problems with any kind of delinquent interest on this category whatsoever. Six is a heck of a lot closer to zero than eight. I am not so sure six isn't the compromise. I am going to reject the eight percent.

SENATOR CLARK: The question before the House is the adoption of the Koch-DeCamp amendment. Senator Koch, did you want to close? All those in favor vote aye, all those opposed vote nay. Have you all voted? Once more, have you all voted? Record the vote.

CLERK: 13 ayes, 17 nays, Mr. President, on the motion.

SENATOR CLARK: Motion failed. Now we are on the bill. Do you have another motion on the desk?

CLERK: Yes, sir, I do. Senator Newell moves to lay the bill over.

SENATOR CLARK: Unanimous consent to lay the bill over, is there any objection? If not, so ordered. We go to LB 486. It was already ordered to be laid over, Senator Schmit.

CLERK: Mr. President, if I may, Senator Labeledz would like to print amendments to LB 483.

Committee on Ag reports LB 36 to General File with amendments.

Explanation of vote from Senator Nichol.

Miscellaneous Subjects offers confirmation of gubernatorial appointments report.

Committee on Judiciary reports 213 to General File with amendments.

Mr. President, LB 486 (Read title). The bill was first read on January 20, referred to Revenue. The bill was advanced to General File. There are committee amendments pending by the Revenue Committee, Mr. President.

SENATOR CLARK: Who is going to take the bill? Senator Carsten, committee amendments.

SENATOR CARSTEN: Mr. President, members of the Legislature, I move for the adoption of the committee amendments. The committee amendments really basically become the bill, Mr. President. Much of the original bill was deleted. The original bill called for a seventy percent based on traffic density. The real substance of the committee

April 23, 1981

LB 559, 560, 213, 11

is \$770,000 additional funds for mental retardation over and above what the Governor's recommendation is and the balance essentially would be committee policies. I am trying to see what is included in here that was not in the Governor's recommendation. I don't think #4 was. #4 would not have been in his budget. #2 was in his budget.

SENATOR BEUTLER: Was in his budget?

SENATOR WARNER: Was. I can't answer specifically on #3 because we didn't have a breakout on that so it may or may not have been.

SENATOR BEUTLER: Okay, but it is a combination of those items listed there plus the salary differential, is that basically it?

SENATOR WARNER: Essentially that would be the difference plus the difference in mental retardation regions, that would be a major big item, \$770,000.

SENATOR BEUTLER: And that wasn't in the Governor's budget because that represented a difference of philosophy or...?

SENATOR WARNER: His budget, as I recall, had a level of thirteen million, four hundred and some thousand, four hundred and twenty-five, I believe, and for the region aid, we are at a higher figure. I don't know if it is philosophy or judgment difference.

SENATOR BEUTLER: Thank you, Senator Warner. Thank you, Mr. Speaker.

SPEAKER MARVEL: The motion is to advance 559 to E & R for review. All those in favor vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 26 ayes, 1 nay on the motion to advance the bill, Mr. President.

SPEAKER MARVEL: Okay, the motion is carried. The bill is advanced. We now go to LB 560.

CLERK: Mr. President, if I may, right before that, Senator Hoagland would like to print amendments to LB 213 in the Journal; and Senator Schmit to print amendments to LB 11.

Mr. President, LB 560 (read title). The bill was read on April 14 for the first time. It was referred directly to General File, Mr. President.

April 28, 1981

LB 213

SPEAKER MARVEL: Okay, the next bill, the next and last bill for today, LB 213.

CLERK: Mr. President, LB 213 was introduced by Senators Carol Pirsch, Peter Hoagland, Elroy Hefner and Sam Cullar. (Read title.) The bill was first read on January 15, referred to Judiciary for a hearing. The bill was advanced to General File. There are committee amendments pending by the Judiciary Committee, Mr. President.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, LB 213 is an important bill. I don't mean to say it is not because I think it is. It is sensitive. The Judiciary Committee heard hearings, fought, amended, fought some more, amended, fought, fought with Peter Hoagland and amended and continued, but the committee amendments as adopted by the Judiciary Committee to LB 213 essentially redraft the original bill. The main thrust of these amendments is to remove numerous unnecessary procedural steps and to redefine the standard needed for commitment after a person has been found not responsible by reason of insanity for a criminal offense. As originally drafted the bill would provide for commitments solely on the grounds of dangerousness. The committee did not feel that this standard was constitutionally defensible. The standard was changed to "dangerous by reason of mental illness or defect." Because the amendments will be explained more fully as they do, in fact, become the bill, I would let Senator Hoagland and Senator Pirsch explain these provisions further when they are talking to the bill. Mr. Chairman, in the essence of time I would suggest that we adopt the committee amendments and then have Senator Pirsch and Senator Hoagland discuss the bill as the amendments are in it.

SPEAKER MARVEL: Okay, Senator Nichol, you have an amendment to the committee amendment and Senator Hoagland has one.

SENATOR NICHOL: No, I do not think...no, I do not have an amendment to the committee amendments. Oh, yes, I do, Mr. Chairman. I forgot about one. It is strictly a technical amendment, "Strike amendment 2 and renumber the original repeal section." I move for the adoption of the amendment to the committee amendments. I'm sorry I forgot about that.

SPEAKER MARVEL: The motion is the adoption of the Nichol amendment to the committee amendment. All in favor vote aye, opposed vote no. Record the vote.

CLERK: 18 ayes, 0 nays on adoption of Senator Nichol's amendment to the committee amendments, Mr. President.

April 28, 1981

LB 21:

SPEAKER MARVEL: Okay, the motion is carried. The amendment is adopted. Now, do we have one for Senator Hoagland?

CLERK: Yes, sir. Mr. President, Senator Hoagland moves to amend the committee amendments and that is found on page 1544 of the Journal.

SENATOR HOAGLAND: Mr. Speaker and colleagues, these two sections which are intended to add two sections to the committee amendments which eventually will become the bill do two things. The first section, and they are both found on page 1544, would attempt to extend jurisdiction of the courts over persons that are currently under commitment, persons like Mr. Cribbs and Mr. Simants so that if we pass this bill shifting jurisdiction for the Mental Health Boards to the courts for purposes of the disposition of persons found not responsible by reason of insanity, will also pick up persons like Cribbs and Simants who are currently under commitment. That is the intent of the first section. The intent of the second section is to assure that all proceedings that are conducted pursuant to this act be highly visible, that they be covered adequately by the media because they take place in open proceedings in the courtrooms and that the public will have knowledge of the full operation of the process unlike is frequently the case today where low visibility decisions are made and people are released without the knowledge of the public, without people really fully understanding what is happening. So I would move the adoption of these two new sections to the bill which are found on page 1544 of the Journal.

SPEAKER MARVEL: The motion before the House is the Hoagland amendment to the committee amendments. All in favor of that motion vote aye, opposed no. Record.

CLERK: 21 ayes, 0 nays, Mr. President, on adoption of Senator Hoagland's amendment to committee amendments.

SPEAKER MARVEL: The motion is adopted. Now the committee amendments. Senator Nichol.

SENATOR NICHOL: Mr. Chairman, I would move for the adoption of the committee amendment. Then we will go into the explanation of the bill as amended.

SPEAKER MARVEL: Okay, the motion is to adopt the committee amendments. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record.

CLERK: 29 ayes, 0 nays on adoption of committee amendments, Mr. President.

SPEAKER MARVEL: The motion is carried. The committee amendments are adopted. Senator Hoagland, do you wish to explain the bill?

SENATOR HOAGLAND: Mr. Speaker and colleagues, let me yield a minute or two to Senator Nichol initially if I might.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, as you know, some people across the state have been concerned during the past few years about people beating the rap, so to speak, by pleading innocent because of insanity and not only that, they have been dismissed from our regional center as cured or sane shortly after they reached there by the mental health center, Lincoln Regional Center. The purpose of this bill was to put it back in the hands of the court after the mental health center has said, yes, these people are cured, before they go back into society so that a judge or a court will have the last say-so as to whether these people do or don't go back into society. Mr. Chairman, with that I would refer to Senator Hoagland and Senator Pirsch who will explain the bill further.

SPEAKER MARVEL: Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker and colleagues, let me just take a moment of two if I can to explain the bill now as amended from a technical point of view and then Senator Pirsch will give some of the reasons why a number of us feel that it is very important to deal with this issue this particular session. Now, there are two essential elements of LB 213 now as amended and let me describe what each of those basic thrusts is. The first is to shift jurisdiction for the disposition of persons found not responsible by reason of insanity and the bill, incidentally changes the terminology from not guilty by reason of insanity to not responsible by reason of insanity from the county mental health commitment boards which currently have jurisdiction, to the trial courts which originally conducted the trial of the matter or the guilty plea in the matter or however else the person came within the jurisdiction of this act. Now, I think a lot of us feel that it is very important to shift jurisdiction back to the courts. Indeed, if you examine the handout that Senator Pirsch has distributed recently you will see that over thirty states currently have a system where the courts have jurisdiction over the disposition of persons found not guilty or not responsible by reason of insanity. Now there are a lot of reasons for this that Senator Pirsch and I have repeatedly given various talks and committee presentations we made about this bill, and let me just boil that down to say that I think that we feel that the courts are

really in a better position to balance the interests of society against the interests of the individual who has committed a criminal act and whose disposition is being considered. Often when the decisions are made by members of the medical community or by mental health commitment boards which have as one of their members, a psychiatrist, why it has been our observation and our feeling that the physician will oftentimes let his physician-patient relationship interfere with his judgement about what is best for society as a whole. The physicians, when making these decisions, are going to be thinking about whether the person is adequately cured to reenter society and they are not going to be directing their thoughts to the overall safety and the overall protection of society and I think our basic feeling is that the courts which, particularly when sitting as criminal courts on a day to day basis, have to make these overall balancing judgmental decisions about what is best for society in relation to what is best for the individual. Now the second major step that LB 213 does, in addition to shifting jurisdiction to the courts, is that it rewrites the standard by which it is determined whether to hold somebody following a verdict of not responsible by reason of insanity. Now Senator Nichol made mention of this standard and what we do in this bill is we promulgate a new standard which is different and less explicit than the standard that applies to people who are to be civilly committed against their will. And that standard is found in the committee amendments that we just adopted and the standard is whether the person is dangerous to himself, herself or others by reason of mental illness or defect or will be so dangerous in the reasonable future. Now the standard currently employed by the mental health commitment boards in determining whether to hold people and how long to hold them, contains more protections than we think are appropriate for persons who have been found to have committed a serious criminal act but then acquitted because they do not have the requisite mental capacity. Now the standard currently in effect is found in Section 83-1009 of the Nebraska statutes which many of you have at your desks. You may wish to have reference to that standard and I think if you read that standard carefully you will see that it has a number of restrictions which are appropriate when applied to persons who are subject to civil commitment without having committed a criminal offense but which we feel are neither appropriate nor constitutionally required when you are dealing with persons who have committed a criminal offense but then are subsequently acquitted by reason of insanity. That civil commitment standard for instance, requires that for somebody to be held he present a substantial risk of serious harm to another person or persons within the near future as manifested by evidence of

recent violent acts. Now you can see as I read that standard all the various protections that are built in there which we think are appropriate again if somebody is to be civilly committed against his will because he is having mental problems but has not committed a criminal act where it is not necessarily appropriate or constitutionally required where somebody has committed a criminal act. Now this does raise an equal protection argument because these are both civil commitment proceedings but many cases that we have found and many jurisdictions and their judicial opinions have justified treating differently people who have been acquitted of a serious criminal act for reason of insanity from people who have not committed any criminal act at all. So, that is the other major difference, the major change in Nebraska law which we think is appropriate and we think can be justified constitutionally and incidentally, we are requesting an opinion of the Attorney General on this particular issue and we will make that available as soon as we receive it. Now there are a number of other smaller changes in the bill. Let me just review briefly. We equalize a number of preemptory challenges in first degree murder cases so the prosecution has as many preemptory challenges as the defendant. We attempt to equalize the discovery of pretrial psychiatric reports in insanity cases so both sides have equal access to the psychiatric reports of the other side. We make explicit the court's responsibility to designate all of the conditions of confinement of somebody committed following such a verdict. You may note that in Section 4 of the committee amendments we require that the courts specify the conditions of confinement regarding any freedom of movement outside the locked facilities, including whether or not the person is to be released in the community for any period of time, however short. Finally, because of difficulties that we have had involving the release of persons by the institution without consulting mental health boards, we have also inserted a provision in the bill indicating that personnel at the regional center must obey the court ordered conditions. In other words, if the court in its commitment order says, no lunch hour release, the institutional personnel must follow that provision and if they fail to do so, any person can, upon conviction be subject to the full contempt powers of the court. So we want to put some teeth in this statute so we know the court orders are going to be enforced. There are other important features. We require a probable cause hearing upon conclusion of the trial before a person can be committed against his will and other matters of that sort. Now in conclusion, what this law does, is it sets up an entirely new procedure for dealing with persons found not guilty by reason of insanity with new standards. It lifts out of the mental health commitment act entirely

those persons and sets up a new procedure for dealing with them. It is important both we feel that we shift jurisdiction of the courts and that we give the courts a more flexible standard to work with than the mental health commitment boards currently have. Now the procedures of this act are modeled on those used in the District of Columbia where they have been in effect for over twenty years, where they work very well. I have confidence that they will work in Nebraska. We intend to have additional amendments on Select File to make the draftsmanship even better than it is now and we will present those at that time. Thank you, Mr. President.

SENATOR NICHOL PRESIDING

SENATOR NICHOL: Senator Pirsch.

SENATOR PIRSCH: Thank you, Mr. President. As many of you are aware, I have been interested and concerned about those persons who are excused of any crime by reason of insanity and their premature release and I won't go into detail but this has involved talking to many defense attorneys, prosecuting attorneys, judges, mental health people, psychologists, psychiatrists about the insanity plea and its place in our society. The Judiciary has also studied this and has held hearings in the past across the state and I think that it is true that we all agree that there is a concern and a problem in the State of Nebraska and as the handout that I just handed out pointed out, that there is a concern on a nationwide scale and many numerous changes and attempts or changes by other Legislatures in other states to put these people who are excused by reason of insanity, back under the court jurisdiction. Now, perhaps there are some of you who are wondering why is there a problem now, and I think a little background would be helpful in understanding that. The present law which deals with insanity in our state has been in existence for many years and there is no doubt in my mind that it was an appropriate solution for the problem which existed in the earlier part of the century. At that time being committed to a mental institution was a much stiffer penalty. You would avoid that. You would try to avoid being found not guilty by reason of insanity because your term in a mental institution could be for life without review and without parole. Consequently the United States Supreme Court in 1973 changed all that and they determined that no one could be committed just because they had been judged insane. So consequently then, the paramount concern of the rights of individuals have led previous Nebraska legislators to enact statutes in our own state in the civil mental health commitment statutes which provide protection of defendants in criminal proceedings to the extent

necessary to ensure due process and equal protection under the law. We did have to revise our insanity criminal statutes and Section 29-2203 was revised a few years ago to comply with the decisions of that 1973 United States Supreme Court and that revision mandates that the mental health board can no longer confine an individual acquitted by reason of insanity on the sole basis of his or her being mentally ill and a fit subject for custody and treatment. The law as decided by the Supreme Court of our land now requires that the defendant be mentally ill dangerous before he or she may be lawfully confined and because of the lack of controls and safeguards after that civil commitment under this new mental health rulings by the Supreme Court, I feel the plea of not guilty by reason of insanity is being used more and more frequently. We have a delicately balanced system of law and that must be ensured to ensure rights to all individuals and whenever legislation is enacted we must be careful not to tip that scale of justice that other groups of individuals be disadvantaged and it is in this light that I feel that we must change our statute in the not guilty by reason of insanity plea. An article by Jim Fogarty which appeared in the World Herald on July 11, 1979, noted that the insanity defense is successful in 90% of those cases in Nebraska in which it is an issue. He adds that the plea is used in one of every five murder or manslaughter cases yet persons who have had first-hand experience with those defendants disagree over whether or not they are impaired to the extent that the law requires if they are to be exonerated.

SENATOR NICHOL: Time is up.

SENATOR PIRSCH: Okay, thank you.

SENATOR NICHOL: Senator Hefner, did you want to hold your amendment until later?

SENATOR HEFNER: Mr. Chairman, I believe I will hold my amendment for Select File. It is getting late in the day.

SENATOR NICHOL: All right, thank you, Senator Hefner, we appreciate it. Senator Hoagland, did you wish to close?

SENATOR HOAGLAND: I think we should waive closing, Mr. President, unless somebody has a specific question, why, I don't think there is anything more to add at this point.

SENATOR NICHOL: There are no other lights on so we are voting on the advancement of LB 213. All those in favor signify by voting aye. Those opposed nay.

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LB 213, 389

CLERK: Senator Nichol voting aye.

SENATOR NICHOL: Have you all voted? Record, please.

CLERK: 37 ayes, 0 nays on the motion to advance the bill, Mr. President.

SENATOR NICHOL: The bill is advanced.

CLERK: Mr. President, two announcements if I may. Senators Schmit and Wesely would like to print amendments to LB 389 and, Mr. President, Senator Warner would like to have an Executive Committee meeting of the...executive session of the Appropriations Committee upon adjournment in Room 1003. (See page 1619 of the Legislative Journal.)

SENATOR NICHOL: Senator Hirley Marsh, would you like to adjourn us until nine o'clock, April 29th please?

SENATOR MARSH: Mr. Speaker, I move that we adjourn until nine o'clock on April 29th.

SENATOR NICHOL: Thank you. All those in favor signify by saying aye, opposed nay. We are adjourned.

Pages 3992-4030 edited by: Arleen McCrory
Arleen McCrory

Pages 4031-4040 edited by: Mary A. Turner
Mary A. Turner

April 30, 1981

LR 62, 65
LB 35, 213, 257, 284,
384, 404

PRESIDENT LUEDTKE PRESIDING

REVEREND ELIZABETH BEAMS: (Prayer offered.)

PRESIDENT: Roll call. While we are waiting for you to register your presence, the Chair would like to introduce from Senator Dworak's District 19 seventh and eighth grade students and ten adults from District 84, Platte County, Platte Center, Nebraska, Mrs. Esther Mohnsen, teacher. They are up here in the North balcony. Would you welcome the seventh and eighth graders from Platte Center. Welcome to your Legislature. Would all of you who are here register your presence so we can start the day, please? Record the presence, Mr. Clerk.

CLERK: There is a quorum present, Mr. President.

PRESIDENT: A quorum being present, are there any corrections to the Journal.

CLERK: I have no corrections, Mr. President.

PRESIDENT: All right, the Journal will stand as published. Any messages, reports or announcements.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 404 and recommend that same be placed on Select File with amendments; LB 213 Select file with amendments. (Signed) Senator Kilgarrin, Chair.

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 35 and find the same correctly engrossed; 257 correctly engrossed; 284 correctly reengrossed; 384 correctly engrossed. (Signed) Senator Kilgarrin, Chair.

Mr. President, I have leases supplied to us from the Department of Administrative Services, State Building Division, pursuant to statutory provision. They will be on file in my office.

And finally, Mr. President, LR 62 and 65 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business, I propose to sign and I do sign LR 62 and LR 65. We are ready then for agenda item #4 on gubernatorial appointments, ready for the first committee, Miscellaneous Subjects, and as I understand, Senator Barrett, you

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LB 39, 39A, 179, 213

body is supposed to be at their desks anyway. The House is still under Call so we are now on Final Reading and you may read matters in while everybody is getting to their respective desk.

CLERK: Mr. President, Senators Pirsch, Hoagland, Cullan, and Hefner would like to print amendments to LB 213 in the Journal.

Your committee on Enrollment and Review respectfully reports they have carefully examined engrossed LB 39 and find the same correctly reengrossed; 39A reengrossed; and 179 correctly reengrossed. All signed by Senator Kilgarin as Chair.

PRESIDENT: There is a motion on the desk before we start Final Reading. Read the motion, Mr. Clerk.

CLERK: (Read Warner motion found on page 1990, Legislative Journal.) That is signed by Senator Warner.

PRESIDENT: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, I offer the motion once again to once again emphasize my concern that we cannot under our system have any kind of orderly presentation for considering priority of funding of programs, because of my concern that the operations of the...continuous operations of existing state responsibility should have first priority and resolved before we start new and expanded programs or expanded aid.

PRESIDENT: Could we have a little bit of order? It is just very difficult to hear up here even.

SENATOR WARNER: I freely acknowledge that I have some satisfaction and because the Governor is a friend of mine I have some satisfaction from that that the Legislature gives him both the privilege and the responsibility and the good PR of setting those priorities because of our inability or unwillingness to do it or to accept a system that permits it, but notwithstanding the fact that I like that, my prime concern is that that is a legislative responsibility and I think a responsibility that we should have and it is one I think we ought to jealously guard. I offered the motion again today. The statement has been made, and I am not going to pursue the motion, as is pointed out when you have lost you have lost, and from that point on, vote your conviction and let it go and the decision, in fact, was made Monday. Certainly it was made yesterday, and the Speaker is gone to defend the agenda, I will not pursue it further but

this is to the best of our ability because I think that we can get this population variance a little closer than 1.14%. Like I told you before, the committee plan was down to less than one quarter of one percent and I feel after visiting with the Attorney General's office and with our staff, after they have done all of this research that that plan could survive a court challenge. Therefore, I would urge you to reject the committee amendment and then advance the bill to Select File and then we will try and work something out that will be acceptable to this body. I also call to your attention Senator Maresh's statement saying that we could have a hearing Friday. I don't believe there is any way we could have a hearing Friday because we need to have five days or seven days notice from the time that we put it on the Clerk's desk and so I think the closest date that we could set a hearing for would be next Monday night or next Tuesday night, so therefore, I would certainly urge you to reject the committee amendment now as amended.

SPEAKER MARVEL: Senator DeCamp, do you wish to speak to the committee amendments? Okay, Senator Koch. You are the last speaker so we can proceed. All those in favor of the committee amendments vote aye, opposed vote no. We are voting on the committee amendments. Have you all voted? Have you all voted? Senator Warner.

SENATOR WARNER: Is there still just one person excused?

SPEAKER MARVEL: There isn't anybody excused.

SENATOR WARNER: I ask for a Call of the House and a roll call vote, Mr. President.

SPEAKER MARVEL: Shall the House go under Call? All those in favor of that motion vote aye, opposed vote no. Record.

CLERK: 23 ayes, 1 nay to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please take your seats. Record your presence. I encourage all unauthorized personnel to leave the floor. It is my understanding there is no one excused.

CLERK: Mr. President, while we are waiting I have amendments from Senator Schmit to LB 243 and from Senator Nichol and DeCamp to LB 213 to be printed in the Journal.

SPEAKER MARVEL: And while we are waiting for the vote from Senator Fowler's district it is my privilege to present Mr. and Mrs. Peter Wiese and their family, Jesper and Mary Ann, and Erik Anderson and Lisa Toft and Mr. Wiese is the permanent undersecretary to the Prime Minister of Denmark. They

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LB 213, 243, 320, 321, 488

SPEAKER MARVEL: The motion is carried. The bill is advanced. The next bill is 213.

CLERK: Mr. President, if I may right before that, your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 488 and recommend that same be placed on Select File; 320, Select File; 243, Select File; 321, Select File. All signed Senator Kilgarin, Chair. (See pages 2148 and 2149 of the Legislative Journal.)

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LB 213

CLERK: Mr. President, with respect to LB 213 the first order of business is adoption of E & R amendments, Mr. President.

SPEAKER MARVEL: Senator Kilgarin. Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 213.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The E & R amendments are adopted.

CLERK: Mr. President, the first amendment to the bill is offered by Senator Hefner. Senator Hefner, you have an amendment to LB 213, Section 2, line 16, change 30 to 60, Senator. All right. Mr. President, the next amendment I have is by Senators Pirsch, Hoagland, Cullan. On page 1987, I understand they wish to withdraw. All right, Mr. President, the next amendment to the bill is by Senators Nichol and DeCamp. It is on page 2086 of the Journal, Mr. President.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, there are several amendments coming up and if it would be agreeable with the Speaker we would like to withhold these until Senator Hoagland, who has some more amendments which were filed in the Journal after our amendment, and we would ask that we withhold our amendments until we have decided what to do with Senator Hoagland's amendments, since it is his bill, in hopes of saving some time.

SPEAKER MARVEL: Okay, the Chair recognizes Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker and colleagues, you will recall that last week when this bill was scheduled on Select File, Senators Pirsch and Cullan and Hefner and myself distributed a white copy to each of you which incorporated the amendments that were in the Journal, filed in the Journal that day and showed how the bill would read with all those amendments added and we have copies of that if any of you have misplaced that copy and would like to take a look at it. Now, since we handed out that white copy of the bill we received an Attorney General's opinion indicating that some of the provisions of the bill were constitutionally suspect. So what we did we amended slightly, and I can explain in what respects, the version of the bill that we handed out last week to accommodate in part the Attorney General's opinion and we did that in two principal respects. The first thing we did is we changed our standard to add the

phrase, "as demonstrated by an overt act or threat."

SENATOR NICHOL PRESIDING

SENATOR NICHOL: Senator Hoagland, may I interrupt just a second? The Clerk tells me there might be confusion as to what you are talking about and to set the record straight so that everybody in the House knows what we are talking about, and that is that we are not talking about the Nichol-DeCamp amendment. We are talking about the last amendments by you, Senator Hoagland. Just so that there won't be any confusion. Thank you. Sorry to interrupt.

SENATOR HOAGLAND: No problem, that is correct.

CLERK: Mr. President, if I may, Senator, those...you are referring to the amendments on 2122 of the Journal? Is that correct, Senator? That begin there...

SENATOR HOAGLAND: Yes, that is correct.

CLERK: 2122.

SENATOR HOAGLAND: Page 2122 of the Journal, if any of you would like to refer to it. Now, the way that the amendments on page 2122 of the Journal are different from the amendments that we distributed last week are, first of all, they change the standards so that the entire standard for considering whether people should be committed or not following an acquittal by reason of insanity is, "Whether the person is dangerous to himself, herself, or others by reason of mental illness or defect or will be so dangerous in the foreseeable future as demonstrated by an overt act or threat." And we are changing the language to add, "as demonstrated by an overt act or threat," to satisfy a portion of the objection registered in the Attorney General's letter. Now the second thing we do in response to the Attorney General's letter is we add a new Section 6 to the bill which indicates that, "At each hearing conducted pursuant to the act," that is, each hearing considering the status of someone who has been found not responsible by reason of insanity and whose commitment is being considered, why, "that person should be entitled to the assistance of counsel and such additional rights as are guaranteed by the laws and Constitution of the State of Nebraska and by the United States Constitution." So that is intended to be sure that all persons who appear before the court following an acquittal are given all of the due process rights that they are entitled to under state law and under federal law including particularly the right to assistance by counsel. Now we chose not to enumerate those

rights specifically because there is a constantly changing list of rights to which these defendants are entitled. You might recall reading in the papers that just two days ago the United States Supreme Court broadened the interpretation of the Miranda opinion, *Miranda vs. Arizona*, to grant defendants rights that people hadn't fully understood they were entitled to before that opinion. So we are leaving that language general to incorporate additional rights that persons in this status may acquire in future opinions by the Nebraska Supreme Court or the United States Supreme Court. Now in other respects the amendments on page 2122 are essentially the same as the amendments that were distributed to you last week. Now we have talked on this bill before, several of us, and I don't want to take any more time than is necessary. Let me just set out again the three or four basic principles of the bill. Number one, they shift jurisdiction over persons who have been found not responsible by reason of insanity in the court system from the mental health commitment boards to the courts that tried the case, the trial court that tried the case. The second thing it does is it creates a separate class by setting up a different standard for treating persons who were acquitted of criminal offenses from those who are subject to commitment under the Mental Health Commitment Act and that standard, that different standard is intentionally looser. It does not have the requirement of a recent violent act among other things to give the courts more discretion in determining how to handle people who have been acquitted of criminal offenses. Now the Attorney General's opinion raised the question as to whether it is constitutional in the State of Nebraska to set up that separate class. The Attorney General did not say it was constitutional. The Attorney General did not say it was unconstitutional. The Attorney General simply said that this is constitutionally suspect, in effect, saying that this is the kind of argument that will be presented to the Nebraska Supreme Court and we cannot predict how the Nebraska Supreme Court is going to rule on that issue. I think it is the feeling of the sponsors of this legislation that we need to go with the tougher standard, the standard that in particular does not require a recent act in order to qualify someone for commitment, either immediately following the acquittal or five or ten years later for continued commitment and see if that standard will be approved by the Nebraska Supreme Court. I might note, and I know Senator Pirsch will speak on this subject, that many other jurisdictions have said that it is constitutional to set up a separate class. Many other states apply different standards to people who have been acquitted of a criminal offense from people who have not had any criminal involvement and are merely subject to civil commitment. Now two other

important features of this particular bill, and I think these are particularly important features and if we have to debate the DeCamp-Nichol substitute for our bill, why we will talk about these features in greater length, and the first feature is that in this particular version, the version that the four of us are sponsoring, why we are extending the court jurisdiction over previously acquitted persons like Mrs. Alvarez, Mr. Simants and Mr. Cribbs, in order to bring them into this new system even though they have previously been committed and are currently under the supervision of the mental health commitment boards. We have a specific section that would extend court jurisdiction over those persons for the rest of their commitment and we think it is important to take this step and to bring Simants and Cribbs and Mrs. Alvarez and others who have been similarly committed, following an acquittal of a criminal offense, back under the court jurisdiction and take them away from the jurisdiction of the mental health commitment boards. We think that is a very important feature of this attempt, a very important feature of this act and we believe that that is constitutional as well if the courts afford each of these persons all of their due process rights and we think with our new Section 6, the courts will do that. Now, finally, there is another provision in our act which we think is important and Senator Cullan may speak to this particular provision later and that is to provide specific guidelines indicating exactly what part of the psychiatric reports and the probation reports and the other materials that are accumulated as a person goes through the system are public and subject to public copying and public inspection and which parts are not. We think it is important in this act to set out carefully those distinctions so the public and the press will know what they have access to and will know what they do not have access to. So, basically that explains what we are attempting to do with these amendments. Generally it is an attempt to improve upon the bill as we passed it on General File. It adds several provisions that we think are important, some in response to the Attorney General's opinion, others which are stylistic and to a lesser extent, substantive. So with that, I would ask that we adopt these amendments. Thank you, Mr. President.

SENATOR NICHOL: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, Senator Hoagland has already explained the amendments very well and I don't think there is a need for any extensive comment. I would like to make it clear for the record what the purpose of the public access amendment Senator Hoagland had mentioned earlier deal with and one of the reasons we believe it is very important that these public access amendments remain in LB 213. What those amendments do would make

It very clear what the contents of the public records are in anything that is actually admitted into the record as evidence and becomes a part of the official record as public information. We also make it very clear that the court does have the authority to make the distinction as far as confidential, medical and psychiatric records are concerned and to exclude them from the record. And so that makes it absolutely clear in statute what will or will not be in the public record so that every time the press wants access to this type of information which should be public information, they do not have to go to court and challenge it and try to obtain that information. So I think it is an important procedural amendment, one that does give the public the right to know what is going on in this area. Now we are making a distinction here as far as public access to this information is concerned. As you know in an involuntary civil commitment those proceedings before the mental health commitment board are private proceedings. Those proceedings are not open to the public. The results of those proceedings are not made available to the public but here the public has an interest because this is a judicial proceeding. It is not the same type of a proceeding as exists before the mental health commitment board. In addition, the individual has distributed or has exhibited some violent tendencies. The public is concerned about the dangerous aspects and the public is very interested in what happens to these specific individuals. Now the press finds out but they don't find out officially. They find out by calling the regional center or something else and I think it is important that we make it clear that this information is public. The other distinction that I think is a point that I think we need to make for the record and this is a distinction between what Senator Nichol and Senator DeCamp may be proposing later but something that is important is the standard that we propose and the difference between this standard and, or maybe I should wait until they propose their amendments on this. I will just wait until, see if Senator Nichol and Senator DeCamp offer their amendments and if they do I will address the distinctions in standards at that time, but I do urge you to adopt these amendments now.

SENATOR NICHOL: Senator Schmit. Senator Schmit, are you in the room? Would somebody get Senator Schmit out of the phone booth, please? Senator Hoagland, I guess it is okay to close.

SENATOR HOAGLAND: I really have no closing, Mr. President. I think I have attempted to explain the amendments. If anyone has any questions I would be happy to try to answer them, otherwise, I have nothing further.

May 20, 1981

LB 213, 111

SENATOR NICHOL: The question is, shall the Pirsch-Hoagland amendments be adopted. All those in favor signify by voting aye, opposed nay. Have you all voted, please? Record, Mr. Clerk.

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

SENATOR NICHOL: The motion now is to advance the bill. All those in favor signify by voting aye, opposed nay. Have you all voted? Please vote so we can move along. Record, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on the motion to advance the bill.

SENATOR NICHOL: We will move on to LB 111.

CLERK: LB 111 was considered by the membership on March 30. At that time the E & R amendments were adopted. There was a motion to indefinitely postpone. That prevailed at that time, Mr. President. Pursuant to that action, Senator Hoagland made a motion to reconsider and that motion prevailed. The bill was reconsidered. It is now before us on Select File. Mr. President, I do have a motion from Senator Haberman to indefinitely postpone the bill.

SENATOR NICHOL: Senator Haberman.

SENATOR HABERMAN: Mr. President, if I may, and members of the Legislature, in the spirit of cooperation of what was said this morning by the Speaker and with us only having five and a half days left, I withdraw my motion to indefinitely postpone 111.

SENATOR NICHOL: Thank you, Senator Haberman, we appreciate it.

CLERK: Mr. President, I now have a motion from Senator Newell. Mr. President, Senator Newell would move to amend LB 111 by adding a new section to the bill. Add a sunset provision effective January 1, 1985.

SENATOR NICHOL: Is Senator Newell in the room? Did you want to withdraw that, Senator Newell?

SENATOR NEWELL: I would like to....no, I don't want to withdraw it right at this moment. I would like to ask... this is a sunset provision that would make the bill last for three years. I have great reservations about 111. I am willing to try it, but I don't want to put it permanently in stone, and I would like to ask Senator Chronister if he would accept this as a friendly amendment to his bill.

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LB 213, 234, 243, 16, 318,
394, 472, 506, 506A

CLERK: Mr. President, Senator Maresh would move to reconsider the body's action in their failure to pass LB 394 on Final Reading. That will be laid over.

Mr. President, your Enrolling Clerk respectfully reports that she has presented to the Governor at 2:10 p.m. the bills that we read on Final Reading this morning. (Re. LB 316, 506, 506A, 472.)

Mr. President, your committee on Enrollment and Review respectfully reports that they have carefully examined and engrossed LB 213 and find the same correctly engrossed; 234 correctly engrossed; 318 correctly engrossed, all signed, Senator Kilgarin.

SPEAKER MARVEL: Senator Schmit, for what purpose do you arise?

SENATOR SCHMIT: Mr. President, have we had the reading of the vote yet? Have you read those who have voted?

SPEAKER MARVEL: Sorry. Say it again.

SENATOR SCHMIT: Has the Clerk read the report of those who have voted yet?

SPEAKER MARVEL: Yes.

SENATOR SCHMIT: Did you read the names? I'm sorry if I missed it.

SPEAKER MARVEL: Which names are you talking about? You mean a roll call vote? I don't understand your question.

SENATOR SCHMIT: Well the usual procedure I believe is to read those who have voted aye and those who have voted nay. As I understand, Senator Warner indicated that he had voted aye and he is not recorded as having voted and I would like to have the record read as we usually do.

SPEAKER MARVEL: Mr. Clerk, do you have the record?

CLERK: Mr. President, the vote on the advancement of 243 was as follows: (Read record vote again as found on page 2224 of the Legislative Journal.)

SPEAKER MARVEL: Senator Warner, for what purpose do you arise?

SENATOR WARNER: Mr. President, is it in order for me to move to reconsider as shown as having not voted? Pat could

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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.

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LB 213 does not treat those acquitted by reason of insanity substantially the same as present law treats other involuntary mental health commitments. Present law treats these commitments the same. LB 213 changes present law and attempts to accomplish indirectly that which everyone agrees cannot be done directly. There remains a retroactive provision which is highly suspect. There are technical flaws in the bill regarding court procedures and venue which may take years to iron out in the courts. I frequently hear complaints from members of this body about congestions of the court systems. This is the type of legislation that causes judicial overload but aside from the possible constitutional and technical questions of this bill, what I really want you to think about before you push the green button is this. This bill, supposedly, is going to keep people like Simants, Almarez and Cribbs locked up by taking them back to the courts and giving the courts jurisdiction over their release. If you think the courts are going to keep these people locked up longer than the mental health boards and the regional centers will, then perhaps you can explain to me why these types of people are constantly fighting to get their cases into the courts. They try to get their cases before the courts because the courts have to adhere to the letter of the law, not just statutory law, but case law and Constitution law. Courts can not bend the rules and let political considerations or public opinion influence their decisions. Courts that do are reversed and appealed and quickly lose credibility in the legal community. If the people LB 213 brings before the courts no longer meet the commitments standards, they walk out of the courthouse. LB 213 not only opens the front door of the courthouse to let them in, I am afraid that it also opens the back door to let them out. While I sincerely sympathize with what the sponsors of this bill are trying to achieve with LB 213, I am just as sincere when I tell you that I don't believe that LB 213 will achieve this. I feel it is my responsibility to bring these matters to your attention and explain to the state's legal community that the chairmen of the Judiciary Committee are not responsible for this legislation. I think that there are constitutional defects, technical defects and procedural delays for which we will be sorry. Now, may I add, I would like to have a bill of this nature go through the Legislature at this time because I feel that the people of the State of Nebraska want something like this. They do not want people turned loose when they are through with the regional center. As you know, when somebody seeks to beat the rap by claiming they are mentally deficient, mentally deranged or have a mental problem, they seek to be not guilty because of insanity. This is the easiest way to beat the rap and juries are carried away with the testimony of a psychiatrist or two and they say, yes, Mrs. Almarez was in a state of mental disarray, something was

wrong with her mentally when if she killed her four daughters. So, we send her to the Regional Center to be cured of her mental health problem. Now the problem to be addressed by the Regional Center is to cure the person of the mental defect or insanity, whichever they decide is the fact. As soon as that person is "cured" or has overcome their mental defect, the mental health center, the Regional Center has no alternative but to turn that person loose. What we, and I use this we as Judiciary Committee, the sponsor of this bill, are seeking to attain is some way by which the court can receive this person when they are released by the Regional Center so that they keep control of them. They can watch them, monitor them, do whatever is necessary so that they don't fall back into the trap in which they were when they committed the dastardly deed, but in my opinion, we should tie this sort of bill to something that we have in the law books now. What we are attempting to do in the bill the way it is written is to tie it to nothing. We are embarking on a course all our own which is not tied to the mental commitment health, to the Mental Commitment Act and we are striking out on our own. What I predict will happen and I want this for the record, if we should adopt this bill the way it is, is that we will be tied up for many years letting people go free without any jurisdiction by the courts from whence they came or which sentenced them to either the Regional Center or a penal institution. What will happen, I predict, is that an attorney, as soon as they are hired by a client, will immediately get them discharged because the judge, the court, has no reason to keep them under their control. We say, well, we are embarking on a new course and there is no reason to have it tied to any other legislation or any other laws that are now in existence. But what I am saying to you is that by doing this we will be turning them loose without any jurisdiction over them and it will take years to get case law...

PRESIDENT: One minute, Senator Nichol.

SENATOR NICHOL: ...into effect whereby they will be able to be held and to be corrected and maintained, monitored by the courts that sentenced them.

PRESIDENT: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I rise to oppose Senator Nichol's motion to return LB 213. I would have to say that when I started this session out and even now, I prefer a slightly different version of what we are attempting to accomplish. Over the past weekend

I spent a great deal of time reseaching LB 213 and some of the constitutional issues that were raised with regard to the Attorney General's opinion and had been raised previously by Mr. Goc, the counsel to the Judiciary Committee, and they do raise some interesting issues. And, incidentally, one of the reasons that I spent some time researching these matters is that I intend to write a paper on LB 213 and LB 95 and in the process of doing that and so I analyzed the Attorney General's opinions and I looked up the case law that was mentioned in the Attorney General's opinion and did a...looked at some other case law that is important as well, and so I am glad that Senator Nichol raised these points because I think it is important for some of this information to be presented to the Legislature and to be put into the record. Senator Nichol is correct to this extent. He is correct when he says that the the equal protection clause of the United States and the Nebraska State Constitution says that you have to treat people who are in substantially similar situations the same, and if you differentiate between people that are in substantially different situations or substantially similar situations, you have to have a logical reason to distinguish between those individuals. The important, where I think Senator Nichol and John Goc and other people are inaccurate or perhaps where another argument can be made is they rely on several cases to come to the opinion that LB 213 is unconstitutional because LB 213 contains a different standard for committing an individual than does the current Mental Health Commitment Act of the State of Nebraska. The standard is not greatly different but it is different in many ways and the most important reason that it is different is that the standard proposed in LB 213 does not require a recent overt act of dangerousness. It does require an overt act. The opinions that I have seen that would indicate that LB 213 in its current form are wrong or is unconstitutional or constitutionally suspect rely very heavily on the case of Baxstrom vs. Herold. There the United States Supreme Court struck down a New York statute which permitted convicted persons to be committed at the end of their prison terms under a different procedure than those who are committed under New York civil commitment law. Baxstrom can be readily distinguished from the situations which could arise under LB 213 for several reasons. First the New York statute addressed individuals who had been convicted of crimes. Many of those individuals had denied committing the actus reus of the crime and if the crime contained a mens rea element the individual had not challenged his sanity and was therefore presumed to be sane. In a case where the defendant pleads not guilty by reason of insanity, the individual asserts that

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he is insane. If a verdict of not guilty by reason of insanity is delivered, the defendant has been established to be insane. LB 213 treats all of those found not guilty by reason of insanity and similarly the New York statute rejected in Baxtrom applied only to felons who were completing their prison terms, not to those previously released or those released...

PRESIDENT: One minute.

SENATOR CULLAN: ...on bail or parole. Further, the New York statute violated due process rights. LB 213 clearly does not. Another major case which must be distinguished is Jackson vs. Indiana. Here a retarded person was found to lack the requisite mental capacity to stand trial. Pursuant to Indiana statute the trial court committed the defendant to a mental institution until such time as the institution certified that the defendant was sane. The defendant's mental retardation and his lack of ability to communicate left him at such a state as never to be certified sane. The Indiana statute was for the defendant the equivalent of a commitment for life even though the defendant was not found to be dangerous to himself or others. The court held that the defendant was deprived of equal protection of the laws under the fourteenth amendment and ordered his release. The fact situation which existed in Jackson is significantly different than any which could be imagined under LB 213. An individual who pleads not guilty by...

PRESIDENT: Time, Senator.

SENATOR CULLAN: I would like to take another minute if I could with the...

PRESIDENT: Does anybody object to his taking one more minute?

SENATOR CULLAN: Okay, an individual who pleads not guilty by reason of insanity is admitting that he has committed the actus reus. The defendant admits the violent or anti-social conduct. The Indiana statutory scheme had no requirement that the state demonstrate that the individual was dangerous. Finally, there was no previous or there were no provisions for periodic review to determine if the subject had retained his sanity or regained his sanity or that he could be cared for in a less restrictive environment. Recently the Court of Appeals of the District of Columbia found that statutory provisions of the District which provided for a different process for discharge of those found not guilty by reason of insanity from an institution than that use for those committed under the general commitment statutes, they upheld that process. The laws of the District

of Columbia treated the NGRI subject differently in two regards. First, court review of the decision to grant conditional release or discharge was required for NGRI subjects while other patients were discharged or conditionally released based upon the sole discretion of the superintendent of a hospital and, secondly, the standard for relief was different. NGRI subjects could not be released or discharged unless the court found the subject was not likely to endanger himself or others. The other patients were discharged if it appeared that they were not likely to injure themselves or others.

PRESIDENT: One minute is over.

SENATOR CULLAN: Obviously it was much easier for a civil committee to obtain release or discharge than for one found not guilty by reason of insanity. Now the point I am really making, and I will sum it in just a couple sentences, is that in U.S. v. Ecker, the Court of Appeals for the District of Columbia said, that you can use a different standard for discharging an individual who is found not guilty by reason of insanity than you can for discharging an individual who was a normal, civil committee. Now if it is logical and rational to make a distinguishing, to distinguish between those individuals on the standards for release than surely it is logical to treat these individuals differently on the standards of commitment because the act which justifies these individuals being treated differently on release was the criminal act or the antisocial conduct and that is much more closely related in time to admission than it is to release so very clearly if U.S. v. Ecker is a good case, and I think it is, and the rationale in that case is sound, then LB 213 is sound from an equal protection point of view. I think that the Attorney General did not consider U.S. v. Ecker in his opinions and I have not heard Senator Nichol distinguish U.S. v. Ecker. I think it is not on point but it is closely enough related to show that we can distinguish between those found not guilty by reason of insanity and those who are normal civil committees. Thank you for your courtesy and allowing me to put this in the record. I urge you to reject the Nichol amendment.

PRESIDENT: The Chair recognizes Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker and colleagues, I think you may all have understood what this debate is about after Senator Nichol's talk which he read from a prepared text and Senator Cullan's fine legal discourse and the excellent way in which he discussed and cited some citations. What we are really talking about here is litigation because I think we all know that the constitutionality of this act

is going to be challenged. I think Senator Nichol as is his right is making a record for constitutional challenge, expressing the point of view of himself and counsel for the Judiciary Committee. Senator Cullan did an excellent job, I think, of laying out a number of the authorities that we are relying on to support the constitutionality of our version, and if you will bear with me, I will make a little bit more legislative history for the courts, for the Nebraska Supreme Court and perhaps the federal courts, when this is litigated and then we can vote on this issue. Now, I also strongly oppose the Nichol-DeCamp amendments. These amendments really are the same old story that has been advocated by counsel for the Judiciary for the last three months. We have seen these amendments come along in various forms. Many of Mr. Goc's ideas we have adopted into the present draft. Many of those ideas we think are meritorious. We have taken this bill through three or four drafts. We have adopted some of his ideas but on two basic principles the cosponsors collectively, Senators Hefner, Pirsch, Cullan and myself, have decided to stand firm and let me tell you what those two principles are. Number one, we think it's exceedingly important to adopt a tougher standard than is present in the Mental Health Commitment Act because, and this is legal talk again for the courts, because we think there is a valid legislative purpose for treating differently people who have been through the criminal process and found not guilty by reason of insanity but found at the same time to have actually committed that criminal act from people who have never been engaged in the criminal process at all. Now frankly we are treating those people differently and we are treating them according to a tougher standard as Senator Cullan indicates. Now Mr. Goc has been pressing on us for the last three months to use the more lenient standard followed in the Nebraska Mental Health Commitment Act, a standard which frankly restricts the discretion of the courts in holding people far more than we would like to see that discretion restricted. Now we have researched a lot of cases in other jurisdictions, in the District of Columbia and in other states and frankly there are authorities all over the country from other state courts that say that it is legitimate to set up a separate class for people who have been through the criminal process. You can treat them differently according to different standards and that is what we are doing in this particular measure and that is the principal issue of difference between our version and the Nichol-DeCamp version. Now shortly, about ten minutes ago the four of us distributed a handout which outlines the other essential differences between the bill as written and the Nichol-DeCamp amendments. I have mentioned one of them, the most important which is a different standard. Now let me tell you about

another very important difference between the amendments sponsored by Senator Nichol and the bill as written. The bill as written would extend the court's jurisdiction as of the effective date of this act and the emergency clause is on this bill so it will go into effect as soon as the Governor signs it if we pass it this year, to extend jurisdiction of the court over persons like Simants and Mrs. Alvarez and Mr. Cribbs. Now, Mr. Goc and Senator Nichol think that there are constitutional problems with attempting to extend the jurisdiction of the court over people that are currently committed. We think that there are no constitutional problems with that provided those people are accorded all of their due process rights. We think it is important to at least make an attempt to immediately assert court jurisdiction over people like Mrs. Alvarez and Mr. Cribbs and Mr. Simants so that the court will retain jurisdiction over those persons for the duration...

PRESIDENT: One minute, Senator.

SENATOR HOAGLAND: Thank you, Governor, for the duration of their commitment and not to leave the duration of their commitment with the Mental Health Commitment Board. Now I would remind you in those cases, those individuals could continue under commitment for five or ten or fifteen or twenty years and we think it is important if we can to extend the jurisdiction over those persons, extend the court's jurisdiction over those persons now. Now, we are setting up a different system. We are treating these people differently. We are treating them according to a different structure. In the process of doing so we are maintaining the integrity of the Mental Health Commitment Act and the integrity of the standard in the Mental Health Commitment Act and I think it is important for us to do this because otherwise the political temptation of this body is going to be to go in and change the Mental Health Commitment Act and I don't think any of us feel that needs to be done with the exception of people that have been through the criminal process. Now there are a lot of other things that I could say. I will simply ask you to read the handout that we passed out. We have requested an Attorney General's opinion on the Final Reading version of this bill which is quite different than the version the Attorney General rendered us his earlier opinion on. I would ask you to stick with us in this measure and to reject the Nichol-DeCamp amendments. Thank you.

PRESIDENT: Before we go to the next speaker, the Chair would like to introduce from Senator Sieck's district, some 27 third and fourth grade students and four adults from Pleasant Dale, Marjorie Tauriella, teacher, up here in the North balcony with Senator Sieck. Would you welcome them to the Legislature. The Chair recognizes Senator Kilgarrin.

SENATOR KILGARIN: Thank you, Mr. President and colleagues. I have kind of been on both sides of this thing on the Judiciary Committee. I talked with the sponsors of LB 213 and worked with Senator Nichol and legal counsel for the Judiciary Committee and basically I was kind of the swing vote to get it out of committee in a way and after spending considerable time reviewing the differences between Senator Nichol's draft and the sponsor's draft, I did decide to go with the sponsor's draft. A recent Attorney General's opinion which I don't know if it has been handed out to you, but basically supports what we are doing except for the standard and that is the main argument here but let me go ahead and tell you a few things other than the standard about Senator Nichol and DeCamp's draft or amendment that I feel and the Attorney General feels our draft is a little bit straighter on and probably constitutional. The first thing the Nichol-DeCamp draft does not do is it does not make the act retrospective to Almarez and Simants and some of the other people who are already in mental institutions. Now, Hoagland, Pirsch, Cullan and Hefner's draft does make it retrospective and the Attorney General says that is okay. Also the sponsor's draft includes the probable cause hearing whereas Senator Nichol and DeCamp's draft does not. The Attorney General says the probable cause hearing is necessary. Without it there would be serious constitutional problems. You also have the media amendment and letting the media know what parts of the file are available for publication and what are not. The Nichol-DeCamp draft does not contain that provision. Now the standard that Senator Nichol and DeCamp are trying to propose is the Mental Health Commitment Standard, 83-1009. Let me just read that to you because I think it will shed some light on the sponsor's reasons for not wanting to adopt that standard. Defined, mentally ill dangerous person shall mean any mentally ill person or alcoholic person who presents a substantial risk of serious harm, etc., and the near future clause is also in there. But the point I was trying to make is that it says, "alcoholic person." Do you really feel alcoholic person should be included in the standard? Senator Hoagland and the sponsors of the bill, their standard is a little bit more open. It is basically whether the person is dangerous to himself, herself, or others by reason of mental illness or defect or will be so dangerous in the foreseeable future, as demonstrated by an overt act or threat. Nowhere in there is mentioned alcoholism and I don't think alcoholism should be in there and that is one of my main reasons for supporting the sponsors of this legislation, trying out this new standard, giving it a chance in the courts. There are other states that have similar standards. There is precedent for trying this standard and I think

we have to consider society when we make this decision and I would urge you to support the sponsors of this bill in voting against Senator Nichol and DeCamp's amendment. Thank you.

PRESIDENT: The Chair recognizes Senator Pirsch.

SENATOR PIRSCH: Thank you, Mr. President. Members of the body, I can't add too much more to what has already been said in opposition to Senator Nichol's amendment but I would like to just remind you that I personally have been looking at this for three years. My first intention was to make it tougher at the beginning and change the burden of proof so that those who did claim not guilty by reason of insanity would find it a much tougher job to do. This did not meet with much success and a lot of opposition and it is my feeling that if we toughen up the other end that this will work as a deterrent effect to those who I believe are misusing the plea of not guilty by reason of insanity. We passed out this statute summary to you and I hope you have retained it in your file which specifically lays out the statutes of those states, the releasing authority, the burden of proof and the standard of proof and I would just like to point out to you that thirty states do have the committing court or the superior court of the county where the person is tried or the judiciary which make that final releasing authority. This is nothing new. It is new for the State of Nebraska and it is different and I do think it is a good opportunity for discussion and that we should have discussion on this but I think it is a shame that Senator Nichol waited until Final Reading to bring out his objections. We were aware of these on General File and prepared to debate these then. We were aware of them on Select File and prepared to debate them then. I think it is a shame that we wait until Final Reading to bring out this discussion. I would just like to read you some of the court cases. Arkansas, they rejected hospitalization under normal civil commitment laws because the defendant has committed anti-social acts for which he would have received punishment except for the jury's belief as to his or her mental illness. Colorado, the standard is mental disease or defect and likely to cause person to be dangerous to self, others or community in reasonable foreseeable future. Connecticut, mentally ill to extent release would constitute danger to life or person. Delaware, it uses same standard in criminal and civil mentally ill person but it extends in criminal committees to include a danger to public safety and that was held not a violation of due process or equal protection in the Delaware Supreme Court. Hawaii, if the court finds the defendant presents risk of danger to self or person or property of others and that is not proper subject for conditional release, they

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will commit. Iowa, dangerous to public peace and safety is their standard. Committed to security hospital until, one, no longer considered so dangerous and, two, demonstrates good mental health. Kansas, finding of not guilty by reason of insanity is that person committed act, lacked criminal intent and the Supreme Court decision in Kansas said that dangerousness is legal, not a medical decision. That was a landmark case. Louisiana, automatic commitment in capital cases. In other felonies hold hearing to determine if can be released without danger to others or self.

PRESIDENT: One minute, Senator Pirsch.

SENATOR PIRSCH: I could go on. In New Jersey they undergo psychiatric examination and danger to community or self treated after commitment. I could go on and on. As I say there are thirty states who do have some kind of jurisdiction and those who I read you have other standards than the civil commitment standards. This is nothing new, well, actually, since our civil mental health commitment landmark case in '73 which said that no one could be held unless they were dangerous, and that was a standard that was added, this is where the problem has arisen. It used to be a much tougher punishment to be found not guilty by reason of insanity and since that landmark decision in the early '70s more and more advantage is being taken with that plea. I think it is good sense for Nebraska to make that change and I urge you to not adopt Senator Nichol's amendment.

PRESIDENT: The Chair recognizes Senator Cope.

SENATOR COPE: Mr. President and members of the Legislature, I would relinquish my time to Senator Hoagland if he should desire it.

PRESIDENT: Senator Hoagland, will you respond.

SENATOR HOAGLAND: Yes, I would like, Mr. President, if I might, to use just a minute or two of Senator Cope's time.

PRESIDENT: Continue.

SENATOR HOAGLAND: In order to kind of complete and round out the remarks that all of us are making in behalf of the bill I think Senator Pirsch also, as did Senator Cullan, has made an excellent legal record pointing out that a number of other states have different standards that they apply to people that have been through the criminal process and people that have not and I think the standards that she cited and the states which have those standards which have

been approved by the respective highest courts of those jurisdictions again add support to the fundamental constitutionality of our approach here. Now basically what LB 13 (sic) does is it provides a framework, a framework outside the Mental Health Commitment Act for the courts to deal with people who have been acquitted because of the insanity defense but who have otherwise been found guilty of the underlying criminal offense. Now, LB 213 provides a skeleton for treating those people and the courts will have a lot of discretion within that skeleton for flushing out the standards and according individuals who come within that framework additional rights if they wish. Indeed, in Section 6, we make it explicit that persons that are being processed through the framework set up in LB 213 are to be accorded such constitutional rights as are guaranteed and such other rights as are guaranteed under the constitutional laws of the State of Nebraska and the Constitution of the United States and, quite frankly, that gives the courts a great deal of discretion to accord persons all of the due process rights the courts feel they are entitled to. We don't in any way intend that this act should be restrictive in terms of the rights accorded defendants but we intend to give the courts as much latitude as the courts feel they need to accord these persons all of the various constitutional and statutory rights they feel that they need. Now I think as you've gathered from our remarks, we are taking something of a risk with this bill. We are setting up a different standard and Nebraska currently does not operate in that fashion. This will clearly be litigated. We feel that there is enough authority in other jurisdictions for doing this, that it is worth taking the risk in Nebraska, because if this approach is adopted, why Nebraska will have a substantially tighter system, not only for dealing with people who are going to be acquitted by reason of insanity in the future but also dealing with people that have been acquitted in the past and are currently under the jurisdiction of the mental health boards. So, again, I think we have done as best we can to assure that this framework is properly written and constitutionally written and we would ask you to reject the Nichol-DeCamp amendments and pass the bill as written. Thank you, Mr. President.

PRESIDENT: The Chair recognizes Senator DeCamp. There is no need for it because that is it. You are the last speaker so we are ready for the...Senator Nichol, you may close on your motion to return.

SENATOR NICHOL: Mr. Chairman, John says he wants to talk a minute.

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SENATOR DeCAMP: Mr. President...

PRESIDENT: ...do? Oh, okay.

SENATOR DeCAMP: Well I am on with him on the amendments so we will just close together and I will close one minute and he can have four.

PRESIDENT: That is fair.

SENATOR DeCAMP: Mr. President, members of the Legislature, I agree with a lot of what Senator Hoagland and Senator Kilgarin and Pirsch have said with respect to this particular issue and our particular amendment, however, I happen to personally believe that both of our amendments have some problems. I think if they pass the bill the way it is now, which Peter wants, I think you've got a problem. I think you could work that out over the summer. I think you could get the constitutional things ironed out. I think Vard and some of the people that have worked on it, Sam Cullan, I think you would have a pretty good bill by January. That obviously is not what some people want so in the alternative I would urge you to adopt our amendment. I realize you are not but in the other alternative I would urge you to work on this over the summer which I also realize you are not.

PRESIDENT: Okay, Senator Nichol, now do you wish to close?

SENATOR NICHOL: Yes, Mr. Chairman, members of the Legislature, sometimes you have the feeling that the mind is made up. It was mentioned by Senator Cullan that you would be insane but he didn't say when. You have to be insane at the time of the crime, not when the trial is held. Well, sometimes I understand they are sane when the trial is held but insane at the time the dastardly deed is done. This bill does not address what will happen. You have to have a mental attitude to be guilty of a crime. Without that mental attitude you have not committed a crime. You are innocent and not guilty of insanity, you are not guilty, so you can't hold somebody because they have not committed a crime because the mental attitude was not there. Alcoholism was mentioned. Is alcohol a mental defect when you commit a crime? Well, apparently you are the same as insane if you commit a crime when you are under the influence of alcohol. Standards was mentioned. Will we have standards in the reasonably future? We have two different kinds of standards now, different from the other mental health patients. Senator Hoagland said we have a skeleton of framework in which to work and I am telling you, the courts will be putting the meat on that skeleton for the next several

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LB 213, 314, 531

years and we will be turning people loose that we intended to keep under control by this very bill. Senator Hoagland says we will be taking a risk. That is absolutely what you are taking. He says it will be fairly litigated. That is right. It will be fairly litigated and you will be turning people loose while your constituents expect us to be keeping people under control by passing such a bill. I am in favor of such a bill. I am just not in favor of this one. I strongly urge you to adopt the amendments on page 2086.

PRESIDENT: All right, the question is the motion to return LB 213 for this specific amendment. All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Senator Nichol, do you want to do anything about...Record the vote.

CLERK: Mr. President, Senator Cullan requests a record vote. (Read record vote as found on page 2322 of the Legislative Journal.) 9 ayes, 29 nays, Mr. President, on the motion to return the bill.

PRESIDENT: The motion fails. It stays right where it is so we will go on...oh there is another motion? All right, Mr. Clerk, go ahead. Motion on the desk. Read the motion. All right, no further motion so it just stays where it is. We will then go to LB 531. Yes, read some matters in, go right ahead.

CLERK: Mr. President, real quickly, I have a report from the Executive Board regarding interim study resolution referrals. (See page 2323 of the Legislative Journal.)

New resolution, 191, offered by the Business and Labor Committee. (Read. See pages 2323-2324 of the Journal.) That will be laid over, Mr. President.

Mr. President, your committee on Public Health reports LB 314 to General File with amendments and that is signed by Senator Cullan, Chair. See pages 2324-2325 of the Legislative Journal.)

Mr. President, Senator DeCamp would move to return LB 531 to Select File for a specific amendment. The amendment is on page 2219.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, I apologize for taking up your time. I don't know who is to blame, whether it is a legislative aide, a bill drafter, E & R, or John DeCamp, but anyway when we put the amendment

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LB 213, 318, 322,
LB 412, 389, 389A

afraid of what might happen if it was passed anyway, so, I will go along.

SENATOR WARNER: Thank you, Senator Newell.

SENATOR CLARK: All right, that bill will be laid over. The motion is now to suspend the rules. The motion is right now, to suspend the rules to read the following bills: 213, 318, 822, 389 and 389A. That is the only bills we can read. The motion before the House is suspension of the rules. Is there anyone who wants to talk on that? Senator DeCamp, did you want to talk on the suspension of the rules? All right. All those in favor of suspending the rules vote aye. All those opposed vote nay. Senator Goodrich, did you want to talk on it?

SENATOR GOODRICH: Mr. President, you had said when you were quoting those numbers, 822. I think you mean 322. Would you have the Clerk read ...

SENATOR CLARK: No, I said 322, I thought, pardon me. 213, 318, 322, 389 and 389A.

SENATOR GOODRICH: Okay, no problem.

SENATOR CLARK: All those in favor of suspending the rules vote aye, opposed vote nay. It takes 30 votes. Voting aye.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted on suspending the rules to read those five bills? Record the vote.

CLERK: 34 ayes, 2 nays, Mr. President, on the motion to suspend the rules and read those five bills.

SENATOR CLARK: The rules are suspended. The Clerk will now read LB 213 with the emergency clause attached.

ASSISTANT CLERK: (Read LB 213 on Final Reading.)

SENATOR CLARK: All provisions of law having been complied with, the question is, shall 213 pass with the emergency clause attached. All those in favor vote aye. All opposed vote nay.

ASSISTANT CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Record the vote.

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LB 213, 318, 322

ASSISTANT CLERK: (Read record vote as found on page 2345 of the Legislative Journal.) The vote is 40 ayes, 4 nays, 5 excused and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed with the emergency clause attached. The Clerk will now read 318.

ASSISTANT CLERK: (Read LB 318 on Final Reading.)

SENATOR CLARK: All provisions of law having been complied with, the question is, shall LB 318 pass. All those in favor vote aye. All those opposed vote nay. Have you all voted? Record the vote.

ASSISTANT CLERK: (Read record vote as found on page 2346 of the Legislative Journal.) The vote is 40 ayes, 3 nays, 5 excused and not voting, 1 present and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed. The Clerk will now read LB 322 with the emergency clause.

ASSISTANT CLERK: (Read LB 322 on Final Reading.)

SENATOR CLARK: All provisions of law having been complied with, the question is, shall LB 322 pass with the emergency clause attached. All those in favor vote aye, against no.

ASSISTANT CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Once more, have you all voted? Record the vote.

CLERK: (Read record vote as found on page 2347 of the Legislative Journal.) 27 ayes, 15 nays, 5 excused and not voting, Mr. President, 1 present and not voting.

SENATOR CLARK: The bill having failed to receive the constitutional majority has failed to pass on Final Reading with the emergency clause attached. The question is now, shall the bill pass without the emergency clause attached. All those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? There is really no reason to hold it open. If you are all sitting at your desks, why vote. Have you all voted? Record the vote.

CLERK: (Read record vote as found on page 2348 of the Legislative Journal.) 25 ayes, 18 nays, 5 excused and not voting, 1 present and not voting, Mr. President.

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LB 111, 118, 129, 129A, 213,
318, 389, 389A, 523, 556,
556A

bills we didn't have time for before.

SPEAKER MARVEL: It is my understanding we have got about an hour, Mr. Clerk, is that right...?

CLERK: Yes, sir.

SPEAKER MARVEL: ...and at the end of that time we should have the bills up here and I appreciate your cooperation. I have nothing else to say because Senator Clark can't understand English.

SENATOR CLARK: We will be "easy" until then. Senator Marvel.

SPEAKER MARVEL: Where did you go? Oh. The Legislature will be at ease until seven o'clock.

SENATOR CLARK: Or until the bills come up?

SPEAKER MARVEL: Pardon me?

SENATOR CLARK: Or until the bills come up?

SPEAKER MARVEL: I think what we need, Mr. Clerk, and you can correct me, we need a quorum.

CLERK: That would be desirable, yes, sir.

SPEAKER MARVEL: Okay.

EASE

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business I am about to sign and do sign LB 111, LB 118, LB 129, LB 129A, LB 523, engrossed LB 523, engrossed LB 556, engrossed LB 556A, one of the smaller bills of the session, engrossed LB 213, engrossed LB 318, reengrossed LB 389 and reengrossed LB 389A. Okay. Senator Goll, will you adjourn us until nine o'clock tomorrow morning.

SENATOR GOLL: I move that we adjourn until nine o'clock tomorrow morning.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. We are adjourned until nine o'clock tomorrow morning.

Edited by LaVera M. Benischek
LaVera M. Benischek

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LR 192
LB 111, 118, 129, 129A, 213, 318, 322,
389, 389A, 472A, 523, 540, 548, 556, 556A

PRESIDENT LUEDTKE PRESIDING

DR. ROBERT PALMER: Prayer offered.

PRESIDENT: Would you all register your presence? We would like to get started. Senator Carsten, would you give us a green light and then we will start. Thank you, you got us under way. Record the presence, Mr. Clerk.

CLERK: Quorum present, Mr. President.

PRESIDENT: Quorum being present, are there any corrections to the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT: The Journal will stand as published. Any messages, reports or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined LB 540 and find the same correctly enrolled; 322 correctly enrolled.

Mr. President, your enrolling clerk has presented to the Governor for his approval the bills that were read on Final Reading yesterday. (See page 2356 of the Journal regarding LBs 111, 118, 129, 129A, 523, 556, 556A, 213, 318, 389, and 389A.)

Mr. President, I have an Attorney General's Opinion addressed to Senator Beutler regarding LB 472A. (See pages 2356 through 2358 of the Journal.)

Mr. President, I have a report from the Department of Administrative Services regarding lease approval.

Mr. President, new resolution, LR 192, offered by Senator Rumery. (Read LR 192 as found on pages 2358 and 2359 of the Legislative Journal.) That will be laid over, Mr. President.

Mr. President, LB 548 and 322 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business, I propose to sign and I do sign LB 548 and LB 322. Before we get started with today's activities, the Chair would like to introduce fifteen students from across the whole State of Nebraska,

LR 146, 180, 188, 189,
191, 194-196

LB 111, 118, 138, 213, 216,
320, 472, 506, 506A, 512,
523, 551, 556, 556A

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PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer this morning by the Reverend John Schmeltzer, Associate Pastor of First Plymouth Congregational Church here in Lincoln.

REVEREND SCHMELTZER: Prayer offered.

PRESIDENT: Roll call. Record the presence, Mr. Clerk.

CLERK: There is a quorum present, Mr. President.

PRESIDENT: A quorum being present, are there any corrections to the Journal.

CLERK: One little one, Mr. President, on page 2378, insert the contents of LR 194.

PRESIDENT: All right, the Journal will stand published as corrected. Any messages, reports or announcements?

CLERK: Mr. President, I have a series of items. Mr. President, I have several communications from the Governor addressed to the Clerk. (Read. Re.: LB 320, 472, 111, 118, 213, 216, 512, 523, 551, 553, 554, 556, 556A, LB 138, LB 506. See pages 2383-2384.)

Mr. President, I have a veto message from the Governor. (Read. Re.: LB 506A. See page 2385 of the Journal.)

Mr. President, I have an Attorney General's opinion addressed to Senator Beutler regarding LB 321; an opinion addressed to Senator Hoagland on LB 213. See pages 2385-2387 of the Journal.)

Mr. President, new resolutions, LR 195 by Senator Koch. (Read. See page 2387-2388.) And Mr. President, LR 196 offered by Senators Wesely, Hoagland, Fowler and Beutler. (Read. See pages 2388-2389.) Mr. President, finally LRs 146, 180, 188, 189, 191 and 194 are all ready for your signature.

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LR 146, LR 180, LR 188, LR 189, LR 191, LR 194. Anything further, Mr. Clerk?

CLERK: I have nothing further, Mr. President.

PRESIDENT: We will proceed then with agenda item #4, Final Reading on this final day of the 87th Legislature, first session. The Sergeant at Arms will secure the Chamber.