

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

March 23, 1981

LB 167, 216, 322

SPEAKER MARVEL: The House once more is under Call. All legislators please take your seats, record your presence, encourage those who are not to be on the floor to move. We are under Call. If you have not recorded your presence, would you please do so? Senator Wiitala. Senator Fowler, is he excused? Senator Lamb, Senator Maresh, Senator Kahle, Senator Hefner, Senator Sieck, Senator DeCamp, Senator Hoagland, Senator Chambers, Senator Clark. Senator Clark, Senator Dworak, Senator Kahle, Senator Lamb, Senator Maresh.

CLERK: Mr. President, while we are waiting, I have a report from the Agriculture and Environment Committee regarding gubernatorial appointments; and LB 216 is reported to General File with amendments; and LB 322 to General File with amendments. (Signed) Senator Schmit.

SPEAKER MARVEL: Senator Clark, Senator Lamb, Senator Kahle. Will all legislators please return to your seats, since we have had a Call of the House, as per your instruction. We are seeking Senator Clark now. If anybody can find him, please let us know. Are you ready for a roll call vote then? Senator Burrows, do you want a roll call vote now?

SENATOR BURROWS: How many are missing now?

SPEAKER MARVEL: Everybody who is not here is excused. There are eight missing or there are eight excused.

SENATOR BURROWS: Go ahead, let's get it over with then.

SPEAKER MARVEL: Call the roll. All legislators are to be in their chair and we cannot continue with any call until everybody is seated. That is your rules, not ours. Call the roll.

CLERK: (Roll call vote taken: See Pages 1069 and 1070, Legislative Journal.) 10 ayes, 28 nays, Mr. President.

SPEAKER MARVEL: Motion lost. Do you have another item?

CLERK: Mr. President, Senator Schmit moves to amend the bill.

SENATOR SCHMIT: Mr. President.

SPEAKER MARVEL: Senator Schmit.

SENATOR SCHMIT: Mr. President, members of the Legislature, I will explain the amendment. It is very brief and very simple. It is in line with what I was speaking to this morning. As

May 1, 1981

LB 216, 303

SENATOR CLARK: The motion carried. The committee amendments are adopted. On the bill itself, Senator Koch, do you move for the advancement?

SENATOR KOCH: I move for the advancement of LB 303, as amended, to E & R Initial.

SENATOR CLARK: Is there any discussion on the advancement of 303 to Initial? If not, all those in favor vote aye, all those opposed vote nay. Voting aye.

CLERK: Senator Clark voting aye.

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

CLERK: 26 ayes, 0 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The motion carried. The bill is advanced. The next bill is 216.

CLERK: Mr. President, LB 216 introduced by the Ag and Environment Committee and signed by its members. (Read title.) The bill was read on January 15, referred to Ag and Environment for hearing. The bill was advanced to General File with the committee amendments attached, Mr. President.

SENATOR CLARK: Senator Schmit on the committee amendments.

SENATOR SCHMIT: Mr. President and members of the Legislature, basically all the committee amendments do is to exempt radioactive waste from the provisions of the bill and the reason for that is that those wastes are already regulated by the Department of Health. And I move the adoption of the committee amendments.

SENATOR CLARK: Is there any discussion on the committee amendments? If not, all those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Record the vote.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of the committee amendments.

SENATOR CLARK: The committee amendments are adopted. On the bill itself, Senator Schmit.

May 1, 1981

LB 216

SENATOR SCHMIT: Mr. President and members of the Legislature, the reason for the introduction of LB 216 is to supplement LB 853 which the Legislature enacted a year ago. At the time that we enacted 853 the EPA had not proposed some of the requirements which are included now in LB 216. I will just briefly go through the bill for you. Some of the major requirements of the Environmental Protection Agency are that a manifest be provided identifying the origin, the routing, the destination of any hazardous waste during transportation or disposal. It identifies how to process hazardous waste and lays down the regulations and requirements therefor. It provides also that the Department of Environmental Control, the counsel shall consult with the State Fire Marshal relative to adoption of measures that have to do with anything that has any hazard connected to a fire, considers the impact upon the owner or the operator when you adopt these rules and regulations, and also provides for listing of all the materials that are deemed to be hazardous and identifies such. It identifies all the points to be considered for adopting those regulations that have to do with solid waste disposal, its impact upon the industry, upon the community. Provides for inspection of sites that are identified as being available for hazardous waste. Provides for special permits for the disposition or transportation of those wastes that are so identified as being hazardous. Provides the penalties for the violation. Provides for restraint when conditions necessitate that we restrain the transportation of waste for a certain period of time, and allows a severability clause. It is a very comprehensive bill but it is one which industry supports. It is kind of interesting that when the Legislature first began to address this issue a number of years ago there was some concern and reluctance on the part of industry. At the present time I believe the...without exception industry and agriculture support the bill and ask that it be enacted into law. I would be glad to answer any questions that you might have.

SENATOR CLARK: Is there any discussion on the advancement of 216? If not, all those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting aye.

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

CLERK: 26 ayes, 0 nays on the motion to advance the bill, Mr. President.

SENATOR CLARK: The bill is advanced. The next bill is 322.

May 7, 1981

LR 116  
LB 172, 216, 303, 322, 344,  
411, 529, 529A, 559, 160, 161

of the Chamber. That's the big thing. All right, we will proceed then, Mr. Clerk, with the reading of LB 559.

CLERK: (Read LB 559 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 559 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read the record vote as found on page 1813 of the Legislative Journal.) 42 ayes, 1 nay, 6 excused and not voting, Mr. President.

PRESIDENT: LB 559 passes with the emergency clause attached. You may read some things in, Mr. Clerk.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined LB 303 and recommend that same be placed on Select File; LB 216, Select File; LB 322, Select File with amendments; 411, Select File with amendments; 344, Select File with amendments; 172, Select File with amendments; LB 529, Select File, with amendments; LB 529A, Select File with amendments. (See pages 1815 through 1817 of the Legislative Journal.) Mr. President, new resolution, LR 116, offered by Senator Rumery. (Read LR 116 as found on page 1815 of the Legislative Journal.) Mr. President, that will be laid over pursuant to our rules. That's all that I have, Mr. President.

PRESIDENT: We will proceed then, Mr. Clerk, with LB 160.

CLERK: (Read LB 160 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 160 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read the record vote as found on page 1814 of the Legislative Journal.) 43 ayes, 1 nay, 5 excused and not voting, Mr. President.

PRESIDENT: LB 160 passes with the emergency clause attached. The next bill on Final Reading is LB 161.

CLERK: (Read LB 161 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure

May 22, 1981

LB 184, 216

SENATOR BURROWS: I would like a Call of the House and a roll call vote please.

SENATOR CLARK: A Call of the House has been requested. All those in favor of a Call of the House vote aye, opposed vote nay. Record the vote.

CLERK: 15 ayes, 1 nay to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All senators will take their seats and check in please. Senator Burrows, would you check in. Senator Warner, Senator Schmit, Senator Lamb, Senator Hefner, Senator Lowell Johnson, Senator Howard Peterson, Senator Vard Johnson, Maresh, Rumery, Wesely, Kilgarin. Only Senator ~~Flora~~ and Senator Cullan are excused. We are still looking for five more. Senator Beutler, Vard Johnson, Senator Wesely. The House is under Call. We are all supposed to be in our seats please. We are looking for Senator Wesely and Senator Vard Johnson, so, Sergeant at Arms, can you find those two? Here they are, both of them. Call the roll.

CLERK: (Read roll call vote as found on page 2236 of the Legislative Journal.) 22 ayes, 24 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The motion lost. The bill is indefinitely postponed. We will now take up LB 216 on special order.

CLERK: Mr. President, with respect to LB 216, there are E & R amendments pending.

May 24, 1981

LB 243, 216, 39, 39A, 472A

SENATOR CLARK: A Call of the House has been requested. All those in favor vote aye. All those opposed vote nay. Record the vote.

CLERK: 16 ayes, 0 nays, Mr. President, to go under Call.

SENATOR CLARK: The House is under Call. If all senators will return to their seats and check in please. Will you all check in please. Senator Lamb, Senator Hefner, will you check in please. Senator Wagner, Senator Newell, Senator Remmers. Get Senator Lamb checked in please. Senator Wagner is the only one we are missing and there he is. The Clerk will call the roll. He will read first what he is calling it for.

CLERK: Mr. President, the motion is to advance LB 243 to E & R for engrossment. (Read roll call vote as found on pages 2265-67 of the Legislative Journal.) 25 ayes, 20 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The bill is advanced. LB 216. The Clerk would like to read a couple of things in.

CLERK: Mr. President, I have a message from the Governor. (Read. Re. veto of LB 39 and 39A.)

Mr. President, I have a motion from Senator Kahle that LB 39 and 39A become law notwithstanding the objections of the Governor.

SENATOR CLARK: LB 216.

CLERK: Mr. President, excuse me, but Senator Haberman would like to print amendments to LB 472A. (See page 2268 of the Legislative Journal.)

SENATOR CLARK: I would like to also announce there is an Executive Board meeting tomorrow morning at eight o'clock, the 27th of May. Senator Lamb has called that at eight o'clock tomorrow morning.

CLERK: Mr. President, with respect to 216 there are E & R amendments pending.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 216.

SENATOR CLARK: You have heard the motion. All those in favor say aye, opposed no. The amendments are adopted.

May 26, 1981

LB 216

CLERK: Mr. President, Senator Schmit now moves to amend the bill.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Mr. President, would you read the amendment please.

CLERK: The amendment would read on page 15, lines 12 and 16, strike "maximize" and insert "minimize".

SENATOR SCHMIT: Yes, Mr. President, the amendment as you can see is a technical correction and one which should have been caught earlier. I am sorry I missed it. I move the adoption of the amendment.

SENATOR CLARK: Senator Beutler, do you want to talk on the amendment? Is there any discussion on the Schmit amendment? If not all those in favor vote aye, all those opposed vote nay. Record the vote.

CLERK: 33 ayes, 0 nays on adoption of the Schmit amendment, Mr. President.

SENATOR CLARK: The amendment is adopted.

CLERK: I have nothing further on the bill, Mr. President.

SENATOR CLARK: Senator Beutler, your light is still on. Did you want to talk on the advancement of the bill?

SENATOR BEUTLER: Yes.

SENATOR CLARK: Go right ahead.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I would like to address a question to Senator Schmit if I may. It is another one of the bills, Senator Schmit, that has caught me a little off guard and I have not had a chance to review it as thoroughly as I would have liked. But my question has to do with page 7, Section 26. There is a definition of solid waste and that definition has been changed by your bill and it used to be that solid or dissolved material and domestic sewage was excluded from the definition of solid waste. Now that exclusion has been lined out so that this material and domestic sewage is included in the definition of solid waste and I would like to know what implications that it has, why it was done and what implication it has, what is not applicable to domestic sewage that was not heretofore applicable?

SENATOR SCHMIT: Well, Senator, the language which you are referring to was recommended by the Department of Governmental Control. There has been some concern from the Department of Environmental Control relative to the fact that certain cities have been forced to meet certain standards of compliance in relation to solid waste and there is a real definite reason to believe that perhaps the existing regulations are too stringent and that the amount of solid waste that can be deposited, for example, in the Missouri River is greater than was previously believed to be acceptable. There is, however, the concern that if it would rise to a certain level that it would need to be monitored and that the Department of Governmental Control would need to perhaps advise and counsel municipalities relative to that disposal. As I understand the reason for including the definition we give the DEC that kind of authority.

SENATOR BEUTLER: It would give them the authority over domestic sewage?

SENATOR SCHMIT: That is right.

SENATOR BEUTLER: Is there any reason, Senator Schmit, that we should not also eliminate the language "solid and dissolved materials in irrigation return flows" so that in case there was a problem there that they would have some jurisdiction over that type of solid waste?

SENATOR SCHMIT: Well, very frankly, we discussed it personally and at some length. The question that I raised was whether or not they needed to have that authority. They said they have not had any problem, that their principal problem right now would be to provide manpower to supervise and monitor that kind of an operation. I would have to oppose the amendment at this time if you tried to include it because I am afraid that at this time it would not be likely that the Department would have the funds to monitor it. We depend to a large extent upon federal funds for the operation of this office. Those funds, as you know, are in considerable jeopardy and it was felt by the Department that they had better spend their funds in those areas where they are most effective and where the threat to human beings, et cetera, was the most severe. I believe, and I did tell the Department that we would expect them to come back to us. We are going to have hearings during the interim period and attempt to try to decide just how serious the problem is if, in fact, a problem does exist and if so, we have asked them to make recommendations to us in how they would like to

May 26, 1981

LB 216

proceed and I would hope that you and the body would give us at least six months time to work on this. It is not an easy bill to operate. I think you will recall and it has been a number of years since the committee in Agriculture and Environment first began their efforts to improve the handling of solid waste and especially hazardous waste and when we first brought the bills before...

SENATOR CLARK: You have one minute left.

SENATOR SCHMIT: ...the committee we did not receive much support and now we have some support and I would hope that the bill would pass as much as it is in the present form.

SENATOR BEUTLER: Thank you, Senator Schmit.

SENATOR CLARK: Is there anything further on the advancement of 216? One amendment on the desk.

CLERK: Mr. President, Senator Beutler would move to amend LB 216 by deleting the words "solid or dissolved materials in irrigation return flows." It is on page 7, lines 10 and 11, Mr. President.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, the amendment follows the discussion that Senator Schmit and myself have been having here and basically what Senator Schmit has said with regard to those of us who live in the cities is that we should be cleaning up our domestic sewage and I agree wholeheartedly with Senator Schmit that we should, in fact, be cleaning up our domestic sewage and to that end he has deleted the exemption in the bill applicable to domestic sewage so that it comes under the definition of solid waste and the Department can regulate solid waste with the provisions that it now has under the law. What I am saying is, in addition to domestic sewage let's get to the problem of irrigation return flows. Maybe it is not a big problem yet. Maybe the money is not there to do it yet but theoretically it is correct I think that we should be looking at water pollution in that regard just as we look at it and regulate it with regard to domestic sewage. And so what I am saying is let's change the law now. Let's put it into the law now that that is solid waste and that the Department should be looking at it and if at some future point in time they want to regulate it they can come back into us for the funds to do that. But theoretically I think we should be treating these things the same because they may be problems in both areas and to the extent that they are and if they are, I

May 26, 1981

LB 216

think the Department should be taking a look at them.  
Thank you.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, this is one of those bills which, like Senator Beutler, I did not review at all let alone carefully or even in a cursory fashion, but his amendment seems very appropriate to me and I would like to ask Senator Schmit a question if I may without distracting him too much. Senator Schmit, did the environmental people ask for the amendment which would no longer exempt domestic, these elements in domestic sewage?

SENATOR SCHMIT: Yes, Senator Chambers. It is their version of the bill.

SENATOR CHAMBERS: And they said that they were not dealing with the irrigation return flows because it has not become a problem yet.

SENATOR SCHMIT: Well one of the reasons also, Senator Chambers, and I am having a staff person check on it because to me it is not fatal to have it in the bill but as I understand under 208 of the federal Clean Water Quality Act the Department of Environmental Control today has authority to move if they find a problem in that area and they are responsible for the problem that might come from silting for example. They are responsible for the problem that might develop as a result of fertilizer washing into the streams and rivers and they had that authority under the 208 Water Quality Act and you and Senator Beutler have really caught me somewhat off guard but we did discuss it and they also took that portion of the language out.

SENATOR CHAMBERS: Senator Schmit, if there is this power now under federal legislation would it make any difference to put the same thing in the state bill? I know you said you are having it checked but your feeling at this moment, how would it be?

SENATOR SCHMIT: My concern would not be one of great dread, very frankly, Senator Chambers. I...my only...I guess it is always, when everything else fails you tell the truth. I really did not know exactly why, except that there were so many areas of responsibility. It also includes industrial wastes as you notice and they have authority under the Clean Water Act to monitor and to take action. If there is a complaint filed against an industry or against a farmer, under

the federal Clean Water Act, Section 208, they can come in and take action today.

SENATOR CHAMBERS: Thank you, Senator Schmit. My inclination is to support Senator Beutler's motion but I have mixed feelings about it. Oh, let me tell you just briefly why I was gone most of the day. I was going to go to the City Council swearing in ceremonies because this was the first district election in the history of Omaha. It would be the first time that a black person had ever been sworn into the Council but with all the criticism they make of the Legislature I have never been insulted down here in the way I was in Omaha. Here I am the father of the district bill, going to watch, not a baby born, not twins, not triplets, not sextuplets but septuplets, whatever the seven would be, and I was told that this public event in a public forum was by invitation only and people who were against district elections all these years, Senator Higgins, had their invitations who were inside. So I had to be turned away at the door, but I made such a noise with the clerk she went on the loudspeaker and said maybe they will let the public in after all but at that point I told everybody there that my intent in getting district elections was to make the Council more accessible to the public, not to create elitism so since the public had been turned away and I feel that I belong with the people rather than eliteists, I could not go into that gathering, that my self-respect and pride are about all that I really have and to go into the building after having been spit in the face would have taken my pride and my self-respect from me and I would have been left with nothing. So that is why I was so late in getting here today and maybe some people wish I had gotten in, then I would not be here at all, but I have been trying to take a little time to see whether or not Senator Schmit had gotten the information yet that he was looking for.

SENATOR CLARK: One minute left.

SENATOR CHAMBERS: My inclination then would be to support Senator Beutler's motion and unless somebody can give a compelling reason why this would not be a worthwhile thing, I believe I will have to support it.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President, members, I think this amendment is not necessary at the present time. There is a lot of work being done with irrigation runoff in our area and there is none anymore to speak of. It goes into reuse pits and is used over and I was just visiting with Senator Beutler

May 26, 1981

LB 216

about the City of Kearney is cooperating with the environmental control people and they are using the sludge from the sewage plant to put on the land. So I don't know whether we want to get involved in this at the present time. I think that there is a lot of experimenting going on and there is very little if any solid waste being put back in any rivers that I know about from irrigation water. The water that does run back has no solid waste in it. It may have chemicals in it if that is what you are talking about but when you say solid waste, why unless it runs through a feedlot or something or have a big rain that washes some of the manure out of the feedlot into the drain, why you have no runoff, solid waste runoff with irrigation water. So I think it is an unnecessary amendment.

SENATOR CLARK: Senator Newell. Senator Higgins. Is Senator Higgins in the room?

SENATOR HIGGINS: (Mike not turned on.) ...light is not on.

SENATOR CLARK: We are on Senator Beutler's amendment. Senator Nichol.

SENATOR NICHOL: I would call the question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 25 ayes, 1 nay to cease debate, Mr. President.

SENATOR CLARK: Debate has ceased. Senator Beutler, do you wish to close?

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, the bill represents in advance in terms of trying to deal with pollution. It ends the exemption with regard to domestic sewage apparently. That is what the bill did before my amendment and my amendment would also, also seeks to end the exemption with regard to irrigation return flows, so that the Department of Environmental Control would have jurisdiction to take a look at both city concerns, urban domestic sewage and rural concerns, irrigation return flows. It would look at pollution in both areas. Thank you.

May 26, 1981

LB 216

SENATOR CLARK: The question before the House is the adoption of the amendment by Senator Beutler. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: We are voting on the Beutler amendment to 216. Have you all voted? Once more, have you all voted? Record the vote. Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, I would ask for a Call of the House and a roll call vote.

SENATOR CLARK: A Call of the House has been requested. All those in favor of a Call of the House vote aye, opposed no. Record the vote.

CLERK: 13 ayes, 1 nay to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All senators will check in, please. Would you all please check in? Senator Johnson, Senator Kremer, Senator Kilgarrin, Senator Haberman, Senator Nichol. Senator Newell, would you check in, please. Senator Landis, Senator Marsh, Senator Chronister. We are waiting for Senator Kremer, Haberman and Marsh, Chronister, Haberman and Marsh. Senator Vickers is the only one that is excused. If we would get Senator Chronister now we would have them all. There he is. Did you want a roll call vote? Call the roll.

CLERK: (Read roll call vote as found on page 2269 of the Legislative Journal.) 16 ayes, 32 nays, Mr. President.

SENATOR CLARK: The motion failed. Do you have anything further on the bill?

CLERK: No, sir, I have nothing further on the bill.

SENATOR CLARK: Senator Schmit, do you wish to move the bill?

SENATOR SCHMIT: I move the bill be advanced, Mr. President.

May 26, 1981

LB 411, 216, 320, 352,  
406

interlocutory procedure whereas a defendant will have an adequate chance to appeal at the conclusion of a trial and loses no substantive rights. If defendants are allowed to use this mechanism, it is quite possible that they can use this mechanism as a delaying tactic. For that reason in the middle of a trial take up one of these kinds of appeals use three months, six months or whatever until an answer comes back before the case could proceed, or also in the alternative it is possible for them to make an appeal based on certain of the evidence of the prosecution, whereas even without that questionable evidence there would be enough to convict and yet the trial would come to a halt while this barely relevant and perhaps non-material evidence was ruled on by a higher court. In other words, the defendant can use this mechanism if it is allowed to be utilized as a delaying tactic where as the prosecution will not. For that reason I would urge the adoption of Senator Sieck's amendment as found on page 1982 of the Journal to LB 411.

SENATOR CLARK: Is there any discussion on the amendment? If not, all those in favor vote aye, all those opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 26 ayes, 1 nay, Mr. President, on the motion to adopt Senator Sieck's amendment.

SENATOR CLARK: The amendment is adopted. Is there anything further on the bill? It is now the advancement of the bill. It was returned for a specific amendment. All those in favor of readvancing say aye, all those opposed, the bill is readvanced. Pat, do you have the bills back from Emory?

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports that they have carefully examined and reviewed LB 216 and find the same correctly engrossed, 320 correctly engrossed, 352 correctly engrossed, 406 correctly engrossed. Those are signed by Senator Kilgarin as Chair.

SENATOR CLARK: Senator Haberman, I do believe we are ready for your motion.

SENATOR HABERMAN: Mr. President, members of the Legislature, I move we adjourn until 12:00 tomorrow noon.

May 28, 1981

LB 216

we have the opportunity to come back and veto it. If you don't read it today and it's read tomorrow, then we are in a position where we may not be able to have that opportunity. That is just an ordinary courtesy which is normally extended. I think that...thank you, Senator Hoagland said he would withdraw it, and we will read the bill. Thank you very much.

PRESIDENT: Senator Hoagland, you have withdrawn. Thank you, Senator Hoagland. The motion is withdrawn. So we are now back to the Speaker's motion to take these bills up. Any further discussion? Senator Cullan, you still have your light on, did you...you do not wish to speak? Call the question. All right, the question. Speaker Marvel, do you have anything further?

SPEAKER MARVEL: No.

PRESIDENT: The question then is the suspension of the Rule 6, Section 7(b), for the purpose of taking up the bills enumerated on Final Reading. All those in favor vote aye, opposed nay. It requires 30 votes. Record the vote.

CLERK: 32 ayes, 0 nays, Mr. President, to suspend the rules and proceed with Final Reading.

PRESIDENT: The motion carries. The rules are suspended and all members will return to your desks again. The Sergeant at Arms will make sure that all members are at their desks. We will proceed with Final Reading with LB 216 as soon as everyone is at their desks. Is everyone there? Would everyone please, members, cooperate...everyone get to your desks so that we can proceed with Final Reading as you are just delaying the rest of the day. All right, go ahead, Mr. Clerk. We will proceed then with Final Reading of LB 216. 216. Before we do, Mr. Clerk, let me, maybe we can get some members back at their desks while I introduce from Senator Wagner's District, twenty-seven Elementary, High School and 4-H Group from Arcadia, Nebraska, Trina Richards and Virginia Trotter, leaders. They are up here in the north balcony. Would you wave to us over there? Welcome to your Nebraska Unicameral Legislature. And now, Mr. Clerk, will you proceed with the reading on Final Reading of LB 216.

CLERK: (Read LB 216 on Final Reading.)

PRESIDENT: (Microphone not on)...be at their desks. We are getting so today it's going to be a tough day as it is,

May 28, 1981

LB 216, 243

let's start out, at least, by being at our desks, not roaming around too much. Come on guys, come on. Okay, go ahead.

CLERK: (Continued reading LB 216 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 216 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: (Read the record vote as found on pages 2368 and 2367 of the Legislative Journal.) The vote is 48 ayes, 0 nays, 1 excused and not...one present and not voting, Mr. President.

PRESIDENT: LB 216 passes with the emergency clause attached. The next bill on Final Reading is LB 243. Proceed, Mr. Clerk.

ASSISTANT CLERK: (Read LB 243 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 243 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Senator Schmit. Yes, this is with the emergency clause, that's right. Well, record the vote. There's no way you can get the emergency clause.

ASSISTANT CLERK: (Read the record vote as found on page 2369 of the Legislative Journal.) The vote is 24 ayes, 21 nays, 4 present and not voting, Mr. President.

PRESIDENT: The bill having failed to receive the constitutional majority for passing with emergency clause fails to receive the emergency clause, and now the question before the House is, shall LB 243 pass without the emergency clause? All those in favor vote aye, opposed nay. Senator Schmit, do you wish a roll call vote?

SENATOR SCHMIT: Mr. President, I will have a roll call vote.

PRESIDENT: Roll call vote has been requested. Mr. Clerk, will you proceed with the roll call vote on LB 243?

CLERK: (Read the roll call vote as found on page 2370 of the Legislative Journal.) Mr. President, we need to verify the vote.

May 28, 1981

LB 138, 216, 320, 376,  
406, 466, 512.

PRESIDENT: All right, would you verify the vote?  
Proceed to verify the vote.

CLERK: (Reread the roll call vote as found on page  
2370 of the Legislative Journal.) 24 ayes, 23 nays,  
2 present and not voting, Mr. President.

PRESIDENT: The motion fails...the bill fails on Final  
Reading.

ASSISTANT CLERK: (Read LB 320 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure  
having been complied with, the question is, shall LB 320  
pass with the emergency clause attached? All those in  
favor vote aye, opposed nay. Record the vote.

ASSISTANT CLERK: (Read the record vote as found on pages  
2370 and 2371 of the Legislative Journal.) The vote is  
37 ayes, 12 nays. All members were voting.

PRESIDENT: All right, LB 320 passes with the emergency  
clause attached. The next bill on Final Reading is  
LB 406, Mr. Clerk. And again I would urge all members  
to please stay at your desks as much as possible. It  
is very confusing to see everybody running around and  
politicking on the floor. It just shouldn't be and the  
people that sit there would like to have those others  
sit there too. Thank you.

CLERK: Mr. President, may I read some material in?

PRESIDENT: Yes, you may.

CLERK: Mr. President, I have a proposed rules change  
offered in Senator Wiitala, and, Mr. President, the  
bills we read this morning are ready for your signature.

PRESIDENT: Okay, while the Legislature is in session  
and capable of doing business, I propose to sign and I  
do sign LB 138, LB 512, LB 466, LB 376, LB 216. Proceed  
then, Mr. Clerk, with the reading of LB 406.

CLERK: (Read LB 406 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure  
having been complied with, the question is, shall LB 406  
pass? All those in favor vote aye, opposed nay. Record  
the vote.

CLERK: (Read the record vote as found on pages 2371

May 28, 1981

LB 138, 216, 376, 466, 512

CLERK: Mr. President, one item. Your enrolling clerk has presented to the Governor LBs 138, 512, 466, 376 and 216.

PRESIDENT: The Chair recognizes Senator Hefner for purposes of an announcement.

SENATOR HEFNER: Mr. President and members of the body, since we are going to adjourn tomorrow and will not be here in June, I want to make this announcement today. If you remember, June in Nebraska is Dairy Month and I am going to give you just a few facts and figures about Nebraska's dairy industry. There are 13 cheese plants in Nebraska located in all parts of Nebraska. Seventy million pounds of cheese are produced in this state each year. Fourteen million pounds of ice cream are produced...were produced last year. And would you believe this, there are 120 thousand dairy cows in the state. Cash receipts from dairy products were approximately \$165 million last year. The dairy industry is a very important and competitive industry in Nebraska. It adds much to the economy of the state. And right now I am having some of the Pages pass a little package of cheese to you and you can have your choice...I think there is six different varieties, and these are complements of the new cheese company in Hartington, Nebraska, located in the heart of Nebraska in good old Cedar County in northeast Nebraska. Thank you very much.

PRESIDENT: The Chair at this point....Senator Cope, just a moment, I have some guests to introduce and then I will recognize Senator Cope. The Chair would like to introduce on behalf of Senator Labeledz some guests from the great State of California, Paul Kalmanovitz, Jack Miller, Bernie Orsi and Marv Bowerman, all from the Falstaff Brewery. Would those gentlemen stand with Senator Labeledz back there and be recognized. Welcome to this nation's only Unicameral Legislature, gentlemen. Now, Senator Cope, I recognize you.

SENATOR COPE: Mr. President and members, if we would have just known this a little ahead of time, we would have had cheese from the Ravenna Cheese Company which is in District 36, my District, one of the 13.

PRESIDENT: The Chair recognizes Senator Rumery.

SENATOR RUMERY: Mr. President and members of the Legislature, I am glad to see two non-cowmilkers supporting the dairy industry. Some of us have known this for some time and I am glad they have taken the leadership to

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

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

May 29, 1981

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.