

January 19, 1981

LB 357-388

Journal a motion he is submitting pursuant to Rule 6, Section 2, to rerefer LB 245.

Mr. President, new bills: (Read title to LB 357-388 as found on pages 261-268 of the Legislative Journal.)

SPEAKER MARVEL: Your agenda for tomorrow will show that we will adjourn until 9:30 a.m. There will be a chairmen's meeting at nine o'clock and Exec Board at eleven o'clock. Those two latter meetings will be in Room 1520. Senator Haberman, would you like to adjourn us until nine-thirty tomorrow.

SENATOR HABERMAN: Mr. President, I move that we adjourn sine die until nine-thirty tomorrow morning.

SPEAKER MARVEL: Leave out the sine die.

SENATOR HABERMAN: Move we adjourn until nine-thirty tomorrow morning.

SPEAKER MARVEL: All those in favor say aye, opposed no. We are adjourned until nine-thirty tomorrow morning.

Edited by:


Mary A. Turner

LB 9, 34, 51, 78, 91, 124,
125, 133, 150, 178, 195,
205, 223, 272, 273, 273A
277, 317, 320, 321, 345
363, 376, 409, 439, 459

March 6, 1981

PRESIDENT LUEDTKE PRESIDING

REVEREND GERALD LUNDBY: (Prayer offered.)

PRESIDENT: Senator Higgins, do you want to put your light on and then we will make sure we have got enough. Thank you. Record the presence, Mr. Clerk.

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

PRESIDENT: A quorum being present, is there any corrections to the Journal?

CLERK: I have no corrections to the Journal, Mr. President.

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

CLERK: Yes, sir, I do. Mr. President, first of all, your committee on Education whose Chairman is Senator Koch to whom was referred LB 78 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File with amendments; LB 317 General File with amendments; 320 General File with amendments; 321 General File with amendments; 91 Indefinitely postponed; 223 Indefinitely postponed; 363 Indefinitely postponed; 439 Indefinitely postponed. (Signed) Senator Koch, Chair.

Mr. President, your committee on Banking, Commerce and Insurance whose Chairman is Senator DeCamp to whom was referred LB 376 reports LB 376 to General File with amendments; LB 133 Indefinitely postponed; and 277 Indefinitely postponed. (Signed) Senator DeCamp, Chair.

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined LB 51 and find the same correctly engrossed; LB 125 correctly engrossed; 150 correctly engrossed; 195 correctly engrossed; 205 correctly engrossed; 272 correctly engrossed; 273 correctly engrossed; 273A correctly engrossed; 409 correctly engrossed; and 459 correctly engrossed. (Signed) Senator Kilgarin, Chair.

Mr. President, LB 9, 34, 124, 178 and 345 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 9, LB 34, LB 124, LB 178, and LB 345.

March 10, 1981

LB 72, 179, 376, 500, 269

Senator Chronister asks unanimous consent to add his name to LB 269 as cointroducer.

SPEAKER MARVEL: Hearing no objection, so ordered.

CLERK: Mr. President, Senator Vickers would like to print amendments to LB 72; Senator Dworak to LB 500; Senator Haberman to LB 376. (See pages 833-835 of the Legislative Journal.)

Your committee on Business and Labor gives notice of hearing for March 18 and Business and Labor gives notice of hearing on gubernatorial appointments for March 18 as well, Mr. President.

Mr. President, LB 179 was a bill introduced by the Revenue Committee and signed by its members. (Read title.) The bill was originally read on January 14. It was referred to the Revenue Committee for public hearing. The bill was advanced to General File. There are committee amendments by the Revenue Committee, Mr. President.

SPEAKER MARVEL: Senator Carsten.

SENATOR CARSTEN: Mr. President, members of the Legislature, I move for the adoption of the committee amendments. I guess I better talk to the committee amendments first. The first amendment was to delete Section 1 of the original bill and in our discussion it was felt that there was not sufficient evidence and information available in this particular section and decided that it would be best to just delete it. Section 2 is an additional section to harmonize a date with a related section in the bill and much of this bill is cleanup and it was brought to us by the Revenue Department that needed to harmonize and coordinate the whole procedures and these amendments, of course, contribute to that end. The third one allows an extension of time for good cause regarding certain dates for filing reports by railroads and car companies and the fourth amendment changes the dates for filing by car companies to April 15. Now these are amendments that are beneficial to the Department of Revenue in their operations to bring them into a more reliable and adequate operation. So I move for the adoption of these committee amendments and then I will take the bill section by section, Mr. President.

SPEAKER MARVEL: The motion is the adoption of the Revenue Committee amendments to LB 179. Senator Haberman. All those in favor of adoption of the committee amendments vote aye, opposed vote no.

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

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LB 253, 376, 555

this bill would also relate to them. So it isn't just singling out one particular industry, but it just appeals to the only remaining industry that is in the state. I ask your support of the introduction of this bill too because the senators that this bill most relates to, as far as their districts are concerned, are not here with us today, but are in California hopefully in conference trying to decide the issue at that level. I would also like to remind the body that Falstaff Breweries that 50 percent of the volume of beer that they do produce is placed in private label and generic beer containers and so if it isn't clarified effectively, what we have done is shut down the plant. I would also like to state in closing that I realize that there may be some necessity of amending this bill in order to harmonize the parties that have interest in it that the bill doesn't directly relate to at the present moment. Thank you for your consideration and your support.

SPEAKER MARVEL: The motion is to suspend the rules to allow for introduction. All those in favor of the suspension of the rules for that purpose vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 31 ayes, 1 nay to suspend the rules and allow for the introduction, Mr. President.

SPEAKER MARVEL: Okay, the motion carries.

CLERK: Mr. President, new bill, LB 555, introduced by Senators Higgins, Fenger, Labedz, Pirsch, Newell, Beyer, Vard Johnson, Witata and Kilgarin. (Read LB 555 by title.)

Mr. President, while we are waiting, Senator DeCamp would like to print amendments to LB 376 in the Legislative Journal. (See pages 1109 and 1110 of the Journal.)

SPEAKER MARVEL: We now turn to item #6, General File. We start with LB 253.

CLERK: Mr. President, LB 253 was a bill introduced by Senator John DeCamp. (Read title.) The bill was first read on January 16 of this year. It was referred to the Agriculture and Environment Committee. The bill was advanced to General File. There are committee amendments pending by the Ag and Environment Committee, Mr. President.

SPEAKER MARVEL: Senator Schmit, do you want to handle the amendments to LB 253?

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LB 334A, 95, 376, 499,
559

Any discussion? All those in favor signify by saying aye, opposed nay. LB 334 A is advanced to E & R for engrossment. We will now go back to LB 11.

CLERK: Mr. President, I now have pending on LB 11 the...well, Mr. President, if I may right before that, Senator Von Minden would like to print amendments to LB 559; Senator Landis amendments to LB 499; and Senator Barrett amendments to LB 376; and Senator Fowler to LB 95.

SPEAKER MARVEL PRESIDING

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PRESIDENT: The Chair would also, I believe the guests are still here, Senator Chronister has asked me to introduce Gerald Sussillo, Commissioner of Deeds, City of New York. He is a teacher on leave of absence whose project is to check on state legislatures, and also Crystal George of Salisbury, Missouri is with him. Are they up there in the north balcony? Yes. Welcome to the Nebraska Unicameral Legislature. We are ready then for the next item on General File, LB 376. LB 376.

CLERK: Mr. President, LB 376 was a bill introduced by Senator John DeCamp. (Read title.) The bill was originally read on January 19 of this year, referred to the Banking, Commerce and Insurance Committee for hearing. The bill was advanced to General File. There are committee amendments pending by the Banking Committee, Mr. President.

PRESIDENT: The Chair recognizes Senator DeCamp speaking to the committee amendments. Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, the committee amendments are very, very narrow, very limited and very specific, it is my suggestion at this time that we do as follows on this particular issue because everybody knows it is going to be a fairly volatile and hot issue. The committee amendments merely change from 2 to 3 full facilities. They affect no other aspect of the bill. It is my suggestion that we simply adopt that very limited committee amendment and then in order to save time, let Senator Barrett take up what has come to be known as the Barrett stripper amendment and depending upon what happens after that, if it is successful, it dictates I suppose one direction, if it is unsuccessful, then I would offer after that the so-called compromise amendment that some of you or most of you by this time are familiar with. But the committee amendments themselves, as I say, I doubt they are very controversial and would simply suggest, as I say, we get them adopted and then allow Senator Barrett to take up his issue so that we can debate that at great length, or however long he wants.

PRESIDENT: I understand, Senator DeCamp, that the committee amendment just changes that from 2 to 3. That's all it says.

SENATOR DeCAMP: That is correct.

PRESIDENT: That is the whole committee amendment?

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SENATOR DeCAMP: That's it.

PRESIDENT: All right, thank you. Any further discussion? Senator Hefner.

SENATOR HEFNER: On the bill.

PRESIDENT: All right, thank you, Senator. Now we have a motion on the desk. Read the motion.

CLERK: Mr. President, Senator Barrett's amendment found on page 1707 of the Journal refers as an amendment to the committee amendments.

PRESIDENT: Senator DeCamp, did you....

SENATOR DeCAMP: Yes, I would object to his amendment at this time on the grounds of germaneness. It is a well established policy in here so that the committee amendments have to have amendments to them that are germane. His amendment, as we are going to find out shortly, details the whole bill. It guts the major aspect of the bill. I have no objection to him dealing with it separately as an amendment. But to call that an amendment to the committee amendment, of course, as we have with any number of precedents in here is see that they are germane to the committee amendments.

PRESIDENT: Okay, then I....

SENATOR DeCAMP: Certainly is germane to the bill but in no way to the committee amendments.

PRESIDENT: You are asking the Chair for a ruling on germaneness?

SENATOR DeCAMP: Yes, sir.

PRESIDENT: I will allow Senator Barrett to argue the merit of that particular amendment to the amendment. I will advise both of you gentlemen that I have reviewed the committee amendments as well as the Barrett amendment to the amendment and as soon as I hear Senator Barrett, I am ready to rule. Senator Barrett.

SENATOR BARRETT: Thank you, Mr. President and members. I think the amendment to the committee amendments is most definitely germane to the issue before us this morning. The committee amendment added a third auxiliary teller facility, and my amendment to the committee amendment

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simply reinstates the stricken language which we have on lines 22 and 23, and reinstates the stricken matter on 24 through a big part of 27, which reinstates the three mile section that says that one of the three auxiliary teller offices shall be located within three miles of the parent bank. I think this needs to be reinstated, what the committee deleted, because I think it's essential. I think it is a sound provision and it should be continued. The rationale is simply that most banks who have complied with this particular provision of the law have invested considerable amount of money, bricks and mortar. The two comply with the law. They have located their auxiliary teller offices and reliance on the present statute. If we strike these two lines to eliminate the three miles, I think it would be an unfair advantage for new banks who are attempting to branch or for banks...existing banks that are trying to branch that do not now have auxiliary teller offices. Such banks wouldn't have to build a facility within the three mile limitation making a competitive edge over the banks that have complied already with the existing statute. They have complied with the law. The remainder of my amendment simply attempts to strike sections 2 and 3 of the bill and also makes some technical changes on lines 4 and 5 on page 10. In my opinion, it is most definitely germane, Mr. President.

PRESIDENT: All right, I have....does that constitute your statement?

SENATOR BARRETT: Yes, thank you.

PRESIDENT: Thank you, Senator Barrett. I have before me both the standing committee amendment and your amendment to the amendment. There is no doubt about the fact in the opinion of the Chair that it is germane to the issue before us, but I am going to rule that it is not germane to the very narrow committee amendment which only deals with one word and this is a considerable expansion on that concept of germaneness to the bill as a whole. So it is germane to the bill as a whole for which reason, Senator Barrett, you have every perfect right to make this amendment to the bill as a whole, which will follow the adoption of the committee amendments. And then, of course, you have a right to amend anything you want to on the bill as a whole once the committee amendments have either been rejected or adopted. You have a privilege of rejecting the committee amendment which would reject one word change if that is what you want. So I am going to rule that it is not germane as an

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amendment to the committee amendments. It will be germane to the bill as a whole. Senator Barrett.

SENATOR BARRETT: Mr. President, I would respectfully overrule the Chair. I would ask for a vote on this matter.

PRESIDENT: All right, motion....

SENATOR BARRETT: I think it's critical.

PRESIDENT: All right.

SENATOR BARRETT: I challenge the Chair.

PRESIDENT: You have a motion to overrule the ruling of the Chair. Okay. And for the same reason that you have just argued.

SENATOR BARRETT: Yes.

PRESIDENT: All right. Okay, on the issue of overruling the Chair, I will...I do not intend to open this up to a tremendous debate on this subject because we will take a vote on it. But I will...there are some lights on, Senator Clark, did you wish to speak to the motion to overrule the Chair?

SENATOR CLARK: Mr. President and members, I am with Senator Barrett a hundred percent on his amendment, but I certainly think the Chair is right in what he has agreed to on germaneness. I don't think he could possibly say that what Senator Barrett is offering is germane and I am with him a hundred percent on his amendment, but it has to be to the bill I feel sure of that.

PRESIDENT: Senator DeCamp.

SENATOR DeCAMP: Mr. President, very clearly, I concede one hundred million percent it's germane to the bill, but if we start for this particular occasion now saying, committee amendments, that this type of thing is germane to the committee amendments, the whole session is going to...and then future sessions if this new precedent is set will go up in smoke. His amendment can be offered to the bill but not certainly in this manner. It is just not right.

PRESIDENT: Senator Hefner, you still only want to speak to the bill? All right. Senator Barrett, did you have anything further? Senator Barrett, before I call the

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vote, do you have anything to add?

SENATOR BARRETT: Yes, Mr. President, in deference to the Chair and to the introducer of the bill, I respectfully ask that my motion to challenge be withdrawn.

PRESIDENT: Thank you, sir. Thank you. So it will become...then you are going to file it as a motion to the bill?

SENATOR BARRETT: Yes, sir.

PRESIDENT: Yes, sir. All right. Mr. Clerk, we are then ready for any further debate on the committee amendment. Is there any further debate on the committee amendment? Seeing none, Senator DeCamp, do you have any closing? Motion then is the adoption of the committee amendment. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 28 ayes, 4 nays on adoption of the committee amendments, Mr. President.

PRESIDENT: The motion carries. The committee amendment is adopted. All right, now the amendments over on the desk, Mr. Clerk. What is the next amendment?

CLERK: Mr. President, Senator Haberman has an amendment. Want to withdraw....

PRESIDENT: Senator Haberman, you withdraw all of your amendments, or just....you had three amendments? Three amendments. All Haberman amendments, all three of them are withdrawn. Proceed with the next amendment, Mr. Clerk.

CLERK: Mr. President, the next amendment I have is by Senator DeCamp and that is found on page 1109.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, as I stated, I want to be eminently fair. This is an amendment of the Banking Department. I don't want to take it up now. The issue is either the Barrett amendment or the other version, and I suggest or recommend we all just withdraw amendments and face up to what we are here for which is the issue of the Barrett amendment.

PRESIDENT: All right, so you are going to at this time....

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SENATOR DeCAMP: I'll withdraw it, yes.

PRESIDENT:withdraw the consideration of the amendment. Were there any further amendments ahead of...?

CLERK: No, Mr. President, the next amendment I have is offered by Senator Barrett and that is found on page 1707.

PRESIDENT: All right, the Chair recognizes Senator Barrett.

SENATOR BARRETT: Thank you, Mr. President, and thank you, Senator DeCamp. The essence of my amendment, of course, is to strike sections 2 and 3 of LB 376 as now introduced. My position on multibank holding company which is essentially sections 2 and 3 has been consistent over the years. I have traditionally opposed this type of banking legislation. I oppose it today and I presumably will be opposing it in the years ahead because it rears its ugly head year after year. If we don't dispose of it today, one way or the other, if we don't vote it down it will be back, I can assure you. I don't know how many times this issue has been before this body in the last six, seven, eight years, perhaps every year, I don't know. I recall that in 1978 it was LB 385. It didn't move. In 1979 it was LB 69. Nothing happened there. Last year, of course, you remember it was LB 899. Never got off General File. The same issue year after year to the point where I know, I have been told that there are many members of this body that are virtually sick and tired of the issue and they wish it would go away, and frankly so do I. Here we go again debating an issue which has been before us, has not moved, has gone down the tube, or whatever. You remember last year that this body threw down the gauntlet to the bankers, as Senator Beutler likes to say, we drew a line in the sand. We told the bankers to go home and get their house in order. We told them to come back with a unified position to speak to us with one voice about the banking structure matter. And you know, they did. They formed a Task Force, a representation, a cross section of all the bankers in this state. They spent considerable time, effort and money and energy in studying the entire structure picture. By a majority vote that Task Force said, we don't want multibank holding company legislation. And they are not resting there, that Task Force referred the results to the Executive Committee of the Nebraska Bankers Association and that Executive Committee came up with the same identical position by a majority vote, we don't

want multibank holding company legislation in this state. So the primary purpose of my amendment of course, is to strike at the heart of LB 376, multibank holding. Without question it is the key element in the bill as it has been in years past. It will legalize the operation in Nebraska of bank holding companies. The ultimate result of the passage, in my opinion, of this section is that the big will get bigger, the small will get smaller, or disappear. At the hearing this year held on this bill, the Nebraska bankers and the independent bankers of this state testified in opposition to these sections in the bill. They opposed 376. They indicated again that there was no great need to change the present unit banking structure in the State of Nebraska. They again reaffirmed that they didn't want it. They also suggested that the public was not clamoring, breaking down the doors of this Legislature in order that we might pass or would pass this type of legislation. They stated that LB 376 would allow excessive concentration of financial and economic resources in a few banks, in a few banking companies, principally domiciled in probably Omaha at this point but that is only the door-opener, ladies and gentlemen, Des Moines, Minneapolis, Chicago, New York, wherever. It is only the beginning. Dr. Wayne Dobson, avid Professor of Banking at the University, testified at a hearing in February, I believe, of this year, suggesting that there are two conditions which we can be reasonably certain will exist from permissive multibank holding legislation. The first is that the formation of multibank holding companies in Nebraska will result in the concentration of banking resources under the control of fewer economic units, that is a larger percentage of the banks' financial wealth will be held, controlled by fewer individuals. He also suggested that there will be a larger number of banks owned and controlled by those from outside the trade areas which are now being served by our independent banks. I would agree with both positions. Multibank holding companies by the very nature of their structure remove the ultimate decision making process from the local communities where the individual banks are located, where they are doing business. They remove the decision making processes from the communities in which they are located. Bankers on a local level know the local problems. They know the problems of their constituents and their friends and their neighbors. They understand the financial requirements of their communities. The Federal Reserve system study tells us that with multibank holdings there

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seems to be a reduction in the proportion of total loans going to agricultural borrowers after a bank is acquired by a multibank holding company. This is one facet that disturbs me very much. The same fed study indicates that there seems to be a reduction in the proportion of individual single payment personal loans after the acquisition of a bank by a holding company. Further suggests that there seems to be an increase in service charges which are charged by the banks after their acquisition. Also there seems to be an increase in expenses of the banks which are acquired by the holding companies, presumably because of the high management fees which are charged by the holding companies. This list could be expanded considerably, but I don't think there is any point. I hope the point is made. I think we are left with one certainty, however. There is a concentration of banking resources and financial power in fewer hands as a result of the formation of multibank holding companies. Whether or not this increase in financial and economic power could be or would be abused under multibank holding company is not the point, in my opinion. It cannot be abused if it doesn't exist. This is perhaps the crux of the matter. There is also considerable evidence to point to the fact that when multibank holding companies are permitted, they vigorously compete to buy the banks which are the most aggressive, the most competitive, the banks with the greatest growth potential, thereby eliminating actual or potential customers and competitors in the markets in which they plan to enter. In that sense, there is an anticompetitive tendency. I think it would be a shame if we were to allow a couple of large banking organizations in this state, now perhaps three, to override the wishes of a majority of the banks and the bankers in this state. I think it is frankly time for this body to once again tell those who want holding companies that their persistent efforts year after year after year to control banking in Nebraska....

PRESIDENT: Half a minute, Senator.

SENATOR BARRETT:simply will not prevail. It seems to me that the 456 banks in this state operating on a unit structure system are doing an absolutely adequate and effective job of taking care of the banking requirements of their constituents and this is being accomplished by banking decisions which are made by local ownerships, local management, local directors using deposits from local communities, communities in which the management lives, a participation in local

affairs with a real knowledge and perception of local opportunities and, of course, as well local problems. Seldom have I seen an attempt whereby so many have tried to impose their will on so few. Thank you, Mr. President.

PRESIDENT: The Chair recognizes Senator Clark.

SENATOR CLARK: Mr. President and members, I would like to speak in support of Senator Barrett's amendment. I have got 19 banks in my district. Everyone of them has contacted me. There is not a one of them that want multibank holding. You know the corresponding system today works about as well as anything you can ever get. I was down in Arizona and I talked to legislators down there and they says, for goodness sakes, don't ever get multibank holding or don't ever get branch banking. All it does is concentrate the money and the power in a few. Now I am sure that Senator DeCamp has 19 banks in his district, and I'll bet you everyone of them is just clamoring for multibank holdings. They must be or certainly he wouldn't be putting his bill in representing his own district. I am sure that is probably right. Now he has also an amendment agreed to by six people or signed by six people, two of them want to sell banks and four want to buy. No six banks are going to tell me what I am going to do on this particular bill. This corresponding system that we have today when we have people come into our banks at Sidney, if they want to borrow \$150,000 we can't go quite that high, we go to a corresponding bank. We know what the individual is. A multibank holding or a corporation will never know. What they will do is like they do in Colorado. They are going to go two percent above prime. You try to operate a farm on your two percent above prime. I know what it is over there. I have had some loans from Colorado and I get out of them just as soon as I can because that is all they do. Now if you don't want to pay that, they don't care. They move that money back to Omaha, Chicago, New York, someplace else and get that kind of interest. They are not interested in people. We all know our local bankers, our local bankers know us. That is the most important thing I think we have in Nebraska today, is the fact that these people do know us and we do know them, and banking is kind of a funny thing. You don't change banks normally. I have had a bank for almost fifty years. I have never even thought about changing the bank that I have and I am very, very good friends with the other banks. But I do not think about changing

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my banker, as long as he doesn't sell me out. Most banks, local banks, won't. Don't you think that a corporation won't sell you out. They are an inanimate object and that's all they are going to do. They are going to come in, they are going to take your core deposits. Senator Barrett is absolutely right, they are going to take the banks that are making the most money and the greatest growth for potential, take those core deposits out and put them someplace else. That is not what we need in Nebraska. I would much prefer to support the five or six hundred banks, we have 470 banks or something in Nebraska, than I would to support the six people that have signed this particular agreement. Thank you.

PRESIDENT: The Chair recognizes Senator Dworak.

SENATOR DWORAK: Mr. President and colleagues, I, like Senator Barrett have traditionally opposed branch banking and multibank holding companies. I, like Senator Barrett, am also getting tired of seeing this issue debated year after year after year. I, like Senator Barrett, would also like to sweep this issue under the carpet, close my eyes and dream it away. But I think we all know in this body that this is a public forum and this issue has generated a lot of smoke during the past three, four, five, six, seven, eight years, and where there is smoke there must be fire. This issue apparently isn't going to go away. This issue apparently is one that can't be ducked. This issue is apparently one we are going to have to face. Now I am willing to take a look at this concept. I am not totally comfortable with LB 376 in its present form, but I am willing to take a look and to hear the debate and to debate the particular merits of multibank holding company. That is what this bill is initially designed to bring before this floor. The Barrett amendment strips that concept out of it, and we are right back to the status quo with just some minor fine tuning and we are right back to another year of debating this issue. I think the issue before us that Senator DeCamp has brought before us and will bring before us and the committee has brought before us is the issue of multibank holding company, and I think that issue ought to stay before this floor, and I am willing and ready to debate and face it today. I am going to oppose Senator Barrett and his amendment to keep this issue viable and vital, and then this body in its wisdom can improve upon LB 376 if that is the proper course of action, can defeat 376 if it's in its collective wisdom that is the proper action to take, or to pass it

in its present form. But I think the multibank concept needs to be aired, needs to be debated, and to strip it out of this bill as Senator Barrett intends to do right now is not serving the best interests of the people of the State of Nebraska. Yes, I had heard about the bankers in Senator DeCamp's District, and the bankers in Senator Clark's District and I am well aware of the bankers in Senator Dworak's District, and they have every right, if not right responsibility, to present their views to us. But we also have to think of the people that are not vocal. We also have to think of the majority of citizens that we also represent. And we also have to act in the best interest of the majority of the people in the State of Nebraska, and I think their best interest is served at this time to face this multibank issue, debate it, discuss it, talk about it, make a decision on it. It is the wrong direction to strip it from this bill, to take it out of the context of debate at this point.

PRESIDENT: The Chair recognizes Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman and members of the Legislature, I just got off of the phone a few moments ago from visiting with Jim Oliver at the Airport in Chicago. Many of you know Jim served as Chairman of this so-called committee of the Nebraska Bankers Association. I think this body should know that Jim has changed his position and is now in favor of multibank holding company, number one. Number two, I think we ought to understand, whether we like it or whether we don't, we have multibank holding in Nebraska now through the savings and loans. Every savings and loans in this state can loan money just like any other bank to anyone they want to. Number three, I also learned from Mr. Oliver that yesterday in Washington the Home Loan Bank and the Federal Reserve Bank through their committees are going to recommend that savings and loans can buy banks and banks can buy savings and loans. So, in reality, whether we like it or not we have multibank holding coming whether this Legislature takes any action at all. So it just seems to me that it is time for us to get on with the issue and I would certainly urge this body to vote down the Barrett amendment.

PRESIDENT: The Chair recognizes Senator Landis.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, I have been asked on more than one occasion recently what my feelings about LB 376 are and I was told that when I made a decision that I should let people know,

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and that is why I am on my feet today. This is my feelings on LB 376. I am rising to speak on the Barrett amendment and tell you why I am going to be voting against the Barrett amendment. Early on when I began running for the Legislature, I decided that multibank holding company legislation was not in the public interest, certainly not in the public interest of the 46th District. Several interest groups agreed with me and they placed their confidence and their contributions with me, and we proceeded with that commonality of philosophy. I have been ever since searching for hard evidence to justify that presupposition, and I can't find it, and I have served on the Banking Committee now for two years, and I have made a diligent study of the materials that have been presented to that committee, and I have kept looking for that causal relationship between multibank holding company legislation and higher interest rates, fewer dollars loaned to farmers, or homeowners, for the flight of capital out of multibank holding company states to the east coast money markets, and in truth there are some studies that show that in isolated instances. But for everyone of those studies there is a mirror image study that shows exactly the opposite, and I am left with the conclusion that the people of the 46th District will not be affected by LB 376 passage in a direct economic way. Their loans won't dry up, their rates won't go up or down. The services that they receive probably will change very little, and I can find no evidence that the public wheel will suffer some clear demonstrable harm with the passage of LB 376, and because of that I find no reason then to support the Barrett amendment. What will happen in the event we reject the Barrett amendment and adopt the compromise amendment is that there will be an increase of competition when banks are sold. That is the moment of crux here. The bidding will go up and the multibank holding companies will have a competitive edge over an individual who might want to purchase a bank, and the reason, a multibank holding company can trade stock to purchase a bank, and, therefore, the seller avoids capital gains tax. A purchaser who buys with cash like an individual simply gives the seller a capital gain tax headache and consequently there will be at that moment of sale a competitive advantage for multibank holding companies in all probability. I can only see in this issue a blood bath between banking brothers, an innernessing fight between an industry that is now looking for the best competitive advantage for expansion. Generally, multibank holding company legislation makes the system more competitive at the moment of sale of a bank, and at the same time, however, creates large aggregates that, in fact, will swallow up banks

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that are now individually owned. I guess you could call them the Safeways that every now and then come into a community and swallow up the corner Mom and Pop grocery stores. The only point is that we allow that kind of predatory, competitive, hard-nosed business in all other forms of the economy. We don't deny Safeway the right to expand. We don't deny Standard Oil the right to expand. We don't deny to Treasure City the right to expand, and yet, in fact, we have by legislation created barriers to competition and, in fact, are sought to be preserved by the Barrett amendment and sought to be struck down by the passage of the compromise amendment in the form of LB 376. LB 376 is hard-nosed. It is tough. It will mean a change in the banking climate and structure of this state, but in the end it is exactly what we have allowed to happen everywhere else, and I see no reasons why the banking industry should have some special protection.....

PRESIDENT: Ten seconds.

SENATOR LANDIS:at the hands of the Legislature when we have not given that same protectionism to other small and individually owned companies. For that reason I oppose the Barrett amendment and I will support the compromise amendment, and if that is adopted, I will support LB 376.

PRESIDENT: Before we take up the next speaker in order, the Chair has some guests of Senator Richard Peterson, 18 students, fourth and sixth grade students, District Three, Norfolk, Nebraska, three adults and Miss Julia Peterson teacher. They should be up here in the north balcony. Where are you folks? Back up here. That is Senator Peterson up there with them. I thought he was in the class. There he is. Welcome to the Nebraska Legislature.

We also have distinguished guests from Omaha over here. If you will turn your head towards all of the TV cameras, you will see the apparent winner and the apparent mayor elect to the City of Omaha and his wife, Anne. Mike Boyle, mayor elect, welcome to the Legislature.

I'm going to recognize Mayor Boyle's aunt over here for some words on a point of personal privilege. Senator Higgins.

SENATOR HIGGINS: I just wanted to tell all of the senators each of you have run for election and you know how very tired you are the day after. So, I hope that you will realize what a great effort our mayor elect has made to come down here simply to let the senators of the Nebraska Legislature know how very much he needs your help and how very much you can rely on Mayor Mike Boyle when you go to Omaha and you need assistance. Anytime you go to Omaha if you have a problem, I promise you Mike Boyle will take care of it or his aunt will beat him over the head with a baseball bat. Thank you Senators.

PRESIDENT: Okay, Senator Marsh.

SENATOR MARSH: Mr. President, I move the previous question.

PRESIDENT: Okay, the motion for the previous question has been called for. Do I see five hands? I do. The question is shall debate cease. All those in favor vote aye, opposed vote nay. The question is shall debate cease on the Barrett amendment. Okay, record the vote.

CLERK: 27 ayes, 3 nays to cease debate Mr. President.

PRESIDENT: Motion carries, debate ceases. Senator Barrett you may close on your motion.

SENATOR BARRETT: Thank you Mr. President and members. Listening to the debate, the discussion on 376 on the amendment, I quite frankly was reminded of an old legend. I think it was a Greek legend about a little island in the Tyrrhenian Sea which some of you may remember hearing about. You recall that little island which was filled with fascinating creatures, half woman and half flying fish, and they had beautiful voices Senator Clark and as their sensuous songs rang out over the sea, you can imagine that that

constituted a considerable hazard to navigation on that day. The sea nymphs were called "sirens". As the little ships came near the island the sirens would rush down to the beach with their harps, begin singing and their beautiful voices rang out over the sea and of course it tempted, Senator DeCamp, the little ships of that day to veer from their course and head toward the Island of Promise, and it was at that point that the little ships were dashed to pieces on the rocks and the reef. I wonder if there isn't an application of that legened right here today? I wonder if the members of the legislature aren't hearing some siren songs? I wonder if there aren't some in our own time. I wonder if siren songs aren't finding the ears and filling the ears of some of the members of this body. Some of the, some of the singers are telling us or suggesting that we need a change in multibank holding legislation because apparently the 456 banks in our unit banking structure aren't doing the right kind of a job. Suggestions have been made that the public wants it. Senator Peterson has suggested that Mr. Oliver says that multibank holding companies are coming, no question about it. They can't with the Douglas amendment to the Bank Holding Company Act of 1963 which says that this legislature must pass laws to allow them into the state. They can't come unless we.....

PRESIDENT: Could we have a little respect for paying attention to the speaker. It is very hard to hear, very difficult to hear. Sorry Senator Barrett, would you continue.

SENATOR BARRETT: Thank you. Suggestions of need for multi-banking holding companies when there is in fact no documented evidence, no statistics that show that there is a need for this type of legislation. So the beautiful music is being sung today by the sirens, being sung principally by a couple of large banking organizations in this state who want multi-bank holding legislation. It seems to me that the legislature is listening again, as it should, we are being tempted away from our course however. One person at a time and then perhaps collectively to be dashed to pieces on the rocks. I am no expert, I have offered an amendment, which I think is a good amendment. I have no panacea or crystal ball beyond that I'm not sure what to do. But I will tell you what Orpheus and Ulysses did. Ulysses and Orpheus had the only two ships that ever got past that island. Ulysses did it by putting beeswax ears in the plugs.....in the ears of his sailors, beeswax plugs. As he got near the island, not even trusting himself, he tied himself to the mast of the ship. Now, that may say something to us, Senator Schmit, perhaps, perhaps we should shut some of this extraneous material out. Some of the pressure out here in the rotunda. Some of the phone calls we are getting. Lets continue on the course. Lets tie ourselves

to the mast of the ship and continue on the course which we know is a good course. History has proven that it is a good course.

PRESIDENT: One minute Senator.

SENATOR BARRETT: Lets not deviate. Thank you Mr. President. The other fellow that got past that little island in the Tyrrhenian Sea was Orpheus. Orpheus was in the ship of the Argonauts and Orpheus himself had a very beautiful voice, just like the sirens. A loud voice and it was a beautiful voice. As his ship got close to that island, he started singing loudly and beautifully and the sailors on his ship didn't even hear the siren songs. All they heard was Orpheus and his loud and beautiful voice and perhaps that says something to us. Maybe that is the answer today. Perhaps we should shut out confusion and the misunderstanding and the mistrust and yes even the misstatements. Continue on our course, a course which we know is right and let's start talking and singing proudly and loudly about a banking structure in this state which is fine. We use a cliché in here, if it isn't broken why fix it. I repeat it, why should we. It is a good system and then sing loudly and proudly about that system superior to the systems in most of the states in the union. A system which says to us, by a majority vote we don't want multibank holding companies. I ask you to vote for my amendment. I suggest to you that a vote against the amendment is a vote for multibank holding company legislation. Thank you Mr. President.

PRESIDENT: Question before the House is the adoption of the Barrett amendment to 376. All those in favor vote aye, opposed vote nay. Have you all voted? Voting on the Barrett amendment. Senator Barrett, do you wish to have a Call of the House?

SENATOR BARRETT: I do Mr. President.

PRESIDENT: I'll advise you at this time. There are four excused right now. Yes, Senator Lamb is here. Motion is shall the House go under Call. All those in favor vote aye, opposed vote nay. Four are excused. Would all of you register your presence please. Now, will you re-register your presence. It is only Senator Chambers, Senator Barrett who is not here. Do you wish to go ahead then with the roll call vote? All right proceed Mr. Clerk with the roll call vote on the Barrett amendment. Proceed.

CLERK: Roll call vote. 18 ayes, 25 nays, 2 present and not voting, and 4 excused and not voting. Vote appears on page 1999 of the Legislative Journal.

PRESIDENT: Motion fails. Are there any other amendments on the bill?

CLERK: Yes sir.

PRESIDENT: There are not?

CLERK: There are.

PRESIDENT: Well since it is way past noon do you have some things to read in?

CLERK: No sir, I do not.

PRESIDENT: Senator Fowler, do you wish to recess us.

SENATOR FOWLER: Till 1:45?

PRESIDENT: Till what?

SENATOR FOWLER: 1:45, you ran us a little late, Roland, come on give us a little time.

PRESIDENT: 1:45.....well they won't come in till 1:45 anyway.

SENATOR FOWLER: Okay, 2:00.

PRESIDENT: Oh, no.....1:45.

SENATOR FOWLER: Move to recess until 1:45.

PRESIDENT: Okay, motion is to recess until 1:45. All in favor signify by saying aye. Opposed nay. We are recessed until 1:45.

Edited by Arleen McCrory.
Arleen McCrory

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LR 129A, 376, 487A, 556

RECESS

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: While we are waiting for everyone to register your presence, the Chair would like to introduce to the Legislature from Senator Wagner's District, Ellen Partsch of St. Paul; and Sister Marge Zumzow and Mrs. Polly Partsch. They are the two sisters and the wife of Frank Partsch of the World Herald. Would you please stand up, under the South balcony, ladies? Welcome to the Nebraska Legislature. And we have from Senator Wiitala's District 50 fourth graders from Holling Heights, Millard, Nebraska; Debra Johnson and Linda Ohara, teachers, up here in the North balcony. I don't know if they just came in. Is that where you are? Wave to us. There you are. Welcome to the Nebraska Legislature. We also have under the North balcony Mr. & Mrs. Henry Beach of Sterling, Illinois, grandparents of Jil Scharfenberg, the Assistant Lobbyist Registration Clerk in the Legislative Clerk's Office. Would the Beaches stand up and be recognized? Welcome to the Nebraska Legislature. Register the presence, Mr. Clerk.

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

PRESIDENT: A quorum present, then, Mr. Clerk, is there any matter you want to read into the record before we proceed with LB 376?

CLERK: Mr. President, very quickly, your committee on Enrollment and Review respectfully reports they carefully examined and reviewed LB 129A and recommend that same be placed on Select File; 487A Select File; and 556A Select File. All signed by Senator Kilgarin, Chair.

PRESIDENT: We are ready then to proceed with LB 376.

CLERK: Mr. President, the next motion I have on LB 376 is an amendment by Senators Fitzgerald and DeCamp, I understand they wish to withdraw.

PRESIDENT: All right. Senator Fitzgerald, do you wish to withdraw that motion. All right, that motion is withdrawn.

CLERK: Mr. President, the next motion I have is offered by Senator DeCamp. It is found on page 1982 of the Journal.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature,

the amendment is already available to you. It is in the Journal and, of course, you have probably been contacted by somebody or other on it. Basically it is a thing worked out by a half a dozen banks and a number of suburbans, so on and so forth, and it says a holding company could own up to nine banks by acquiring two banks prior to January 1, 1983 and one bank each year thereafter. In other words, you are cutting it down some. Senator Cullan and others have insisted that any holding company legislation be very tight. That is why the percentages have been brought down in this bill from twenty percent or more to where they are now. It prevents Northwest Bancorporation for all practical purpose from doing anything before January 1, 1983. There are some concerned about that. And it allows for full service facilities. Mr. President, it is awfully noisy in here and I did want to touch on the issue a bit and so I wish you would wham your gavel and shut them up.

PRESIDENT: Please let's give Senator DeCamp some attention so that we can proceed with LB 376. (Gavel) Please! A little better. Go ahead.

SENATOR DeCAMP: Mr. President, we don't need to talk a great amount of time about the issue and I am not going to claim to be an expert on banking structure, multibank grants or anything else. I would say this. You can have circumstantial evidence about something and maybe learn a lot from that. I would like to give you some of the circumstantial evidence that pretty well refutes that this is bad or evil or wrong. Here is the circumstantial evidence. When we started this, the first proposal, four or five years ago, there was one bank supporting the concept. The opponents included the Nebraska Bankers Association. It included all of the suburban banks, all the banks in Omaha. They always talk about Omaha National and U. S. National. They were all opposing. All the banks outstate. What has happened in four years? The four previous heads of the Nebraska Bankers Association who were leading the opposition are all now supporting the multibank concept. The four previous heads, Dickinson, a good friend of mine, a violent opponent; McBride, even rougher than Dickinson at times; Block and so on. They are all strong supporters of this proposal now. Now they know something about banking. They were heads of the Nebraska Bankers. How about Jim Oliver, Jim Oliver, head of the task force we have heard so much about, opponent of opponents of opponent, flying in special from Washington so he could be here to support the proposal. All the suburban banks, previous opponents, almost to a bank now they are supporting this. Outstate,

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Dinsdale, do you know anybody tougher to meet than Roy Dinsdale headon? Roy Dinsdale has gone neutral. I think I personally believe he is supporting and hoping but anyway officially now he has dropped all opposition to the proposal. Did you ever hear of something called First National Bank of Lincoln? Do you remember that that was what it was all about, supposedly First National was opposed. First National dropped all opposition and is actively supporting. Now where is the remaining opposition? Well, Clearwater, Nebraska; Harvard Bank in Harvard, Nebraska. In other words people who are for all practical purposes not involved in the type of banking structure of the general banking system and who I claim really have never studied the issue are still adamantly opposed, but if you ask them to explain any aspect of it, they can't tell you a thing about it. I have never tried to really explain in detail the bill. All I have ever claimed is one thing, that if the banking industry, the officials themselves, will study it and make their conclusions based upon all the facts that they will come out in support of this structure change for banking, and one after the other, the heads of the NBA, the heads of the task force, the suburbans, everybody that is involved changes and says, "Yes, this is a better system in this day and age for us to compete against the S & Ls, for us to keep our banking system together." So the circumstantial evidence is there and that is those who have been most deeply involved once they study it come out in support. I don't claim to be an expert on it as I have said. I do claim that what is offered here is a reasonable compromise and approach to the problem. Senator Dworak raised the question. He said, "Look, I have got some questions, and if this advances, I am going to raise those later". Hawkeye, or whatever that issue is. Fine. I think the bill should be advanced and these questions raised and see if you want to make any adjustments. Give the indication that at least this is the concept and now you need to fine tune it, whatever fine tuning you decide on. I would urge you to adopt the amendment and I would urge you to advance the bill, and one final thing I would point out. I don't have all these studies that everybody talks about on this side or that side, branching, so on and so forth. There is one documented study I am familiar with. That is the Federal Reserve System, unbiased study. It is just to give information on banks. They show that a multibank holding system does, in fact, for sure, all other things aside, do for sure two things. Number one, it does provide higher interest payments to depositors, the people that put their money in, and lower interest to the borrower. Now you can say, well, that ain't true and we have got this study and that. I am just talking about the Federal Reserve. I never did the study. I don't know.

The Federal Reserve has done several studies. That is what they show. I kind of half way believe they might be right. As I say, I urge you to adopt the amendment and advance the bill and that will give the bankers a chance to get together in the next couple of days and see if there is any final common ground. I would hope that on this, the most intense lobbied issue of all, and my good friend Senator Wiitala has decided to do a masters thesis after good old Vince Rossiter (phonetic), who gets a little carried away sometimes, called him up and asked him if he had a bulletproof vest, and, of course, it has gone on like that for years on both sides of the issue. You know how intense it can get and it hurts. It hurts, some of the pressure that both sides put on you. I would like to get that hurt gone and get on to water next year and some other things and get this one gone and I think this is the way to do it. There is enough support for it now. If you talk in terms of assets of banks, you are talking about seventy-five percent of the total assets of the state now support the proposition, when, in fact, before what, one or two percent. So I urge you to adopt the amendment.

PRESIDENT: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President, and members of the Legislature, I rise in support of the DeCamp amendment and I believe it is a reasonable amendment. It is one which has been discussed and debated hour after hour after hour but I would suggest that it is not as controversial as some people would think it might be. I first became interested in the banking issue many years ago on this floor. I think at the time there were probably five or six of us who are now members of this body who were around. I remember how intensely Nebraska Bankers Association opposed the expansion of the bank structure from one to two facilities, two teller facilities, only partial service. At that time it was deemed to be the end of banking, the end of independent banking, the end of a strong unit structure system if that bill became law. The facts were that the bill became law and banking did not suffer from it. The banking industry in fact benefited but the people who really benefited were the customers, the people who were customers of the banks and the people who needed to rely upon the bank for service. Later years other structure changes were offered, some accepted and some rejected, but consistently the trend has been toward an attempt, as Senator Landis pointed out this morning, to accommodate the structure of banking to the structure of business. Twenty-five years ago the average agricultural loan in the State of Nebraska was about \$12,500. Today it would range probably ten to fifteen times that. The average

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business loan was less than \$10,000. Today it would average probably ten to twenty times that. As business has grown and agriculture has grown, the banking industry needs to have the opportunity to grow to meet the capital needs of the customers. I don't think anyone in this room or anyone outside of this room or in the State of Nebraska has any doubt about whether or not the banking system and the bankers are going to survive. I don't think any banker is going to go broke because of the passage or the failure to pass this bill. The thing that is important I think is to look at the failure of businesses and the possibility of business and agricultural failures if capital is not available. Capital is like water. It flows and it flows in this instance not to the lowest point but to the point where the highest interest rates are paid and where the need is greatest, and the ability to facilitate the movement of that capital is important. Now several of these banks who oppose the structure change speak in terms of how well the system has worked. I have only commendation for the vast majority of the banks of Nebraska who have worked hard and long to provide for the capital needs of all of us but times change, businesses change, and the banking industry must change. As has been evidenced that it has changed, the fact is it has changed in the last few weeks. We recognize that the kind of interest rates we have today are a serious threat to the security of most businesses and most farms. We recognize it is going to require the united effort of all sources of credit, all financial institutions, if we can get interest costs back down to a reasonable level...

PRESIDENT: One minute, Senator.

SENATOR SCHMIT: ...and we can reduce inflation costs to a point where we can survive. But I want to say this that as business, industry and agriculture change, so must the banking industry change. If it does not change, it is going to be carried and dragged screaming and kicking and hollering into the next century because the source of credit that we need is going to find that market, and if we don't find it from the Nebraska banks, we are going to have to find it from some other source. I believe that 376 as amended by Senator DeCamp is a reasonable method to approach that. I would ask that you support the amendment, that you would advance the bill. I don't think you will be sorry. I don't think anyone has been sorry for having supported those bank structure changes a number of years ago.

PRESIDENT: Before I introduce or call on the next speaker, I would like to introduce a guest of Senator Koch, Randy Lorenzen. He is from Lefler Junior High here in Lincoln,

a social studies project he is carrying on. Randy, would you stand up? Hi! Randy. Welcome to the Legislature. We will call upon Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I would like to urge you to support the DeCamp amendments and to urge you to support LB 376. Senator Barrett made some very interesting points this morning when he talked about the multibank holding company issue and how long it has been before the Nebraska Legislature. I think it has been here every year since I have been a member of the Legislature and I think he is correct when he says that many of us are growing tired of the issue. One thing that Senator Barrett failed to mention is that the multibank bills which have been presented to us in those succeeding years, and particularly this one with the amendments that are now before you, are considerably different than the early multibank holding company bills that were presented to the Nebraska Legislature. One of the first times that the multibank issue gained significant support in the Nebraska Legislature was when restrictions were proposed and adopted by this Legislature that placed some restrictions upon the growth of this industry, some protection for small banks to ensure that the concentration of economic power in the State of Nebraska would not be too great. I remind the Legislature that the first multibank holding company bill which I saw four years ago said that any one institution could acquire up to twenty percent of the deposits in the State of Nebraska. The current bill provides for nine percent. Now one of the amendments to the bill at an earlier stage provided for eight percent. When Senator DeCamp brought his first multibank proposal to the Legislature, there were no restrictions, no restrictions, on the number of banks or the rate of acquisition that multibank holding companies could use. They could acquire any number of banks in a year and they could do virtually anything they wanted to, and now we see very tight restraints upon the rate of acquisition of other facilities and upon their total deposits, and so as some of our positions on multibank holding companies have changed, so they have changed to be consistent with the change...the different proposals. So the multibank bill we have before us I think is significantly different than the earlier ones and those changes came because we listened to small bankers in different parts of the state who expressed those concerns about concentration of economic power in the hands of just a very few. So I feel considerably more comfortable with multibank holding companies now than I did in the past because the proposal we have before us and the proposals that this Legislature considers are those which will ensure that the economic power does not become too

concentrated in the hands of too few. One concern I do have, however, is what has happened in this period of time while we have failed to allow our banks to change their structures. In the last twenty-five years, the share of banks in savings and loan deposits in Nebraska that is held by banks has shrunk from ninety percent to sixty-nine percent. The savings and loan companies in the State of Nebraska have grown tremendously and they have acquired a tremendous share of the total deposits held by financial institutions in the State of Nebraska, and oftentimes those funds are not plowed back into the local community and certainly not made available for farm loans, as has been the case if those funds were held in the banks in the State of Nebraska. Nebraska is unique in this country in that its three largest financial institutions are S & Ls, not banks. Commercial Federal, the state's largest financial institution, has seen its assets grow by five hundred percent in the last ten years and it has dotted the Nebraska landscape with nearly forty offices.

PRESIDENT: Half a minute, Senator.

SENATOR CULLAN: Nothing like this could have been accomplished in the banking industry and you have seen the changes in the federal legislation so that those S & Ls have powers and can deliver services very similar to what banks can deliver but they cannot...they can provide checking and other things but they are not going to be providing agricultural loans and the kind of business loans that we need so that agriculture can prosper in this state. And so when I looked at the facts and when I looked at the Federal Reserve study and when I try to, as Senator Barrett suggested earlier, plug my ears to the lobbyist on both sides of this issue and read what I could from the Federal Reserve and look at what was happening with the financial institutions of this state, particularly with the S & Ls, I saw a reason to change my position, I saw a reason to support multibank holding companies and give the flexibility that the banking industry needs in the State of Nebraska to compete with the savings and loans, to serve agriculture in this state, and I think that is what this bill is going to do. I think that is what these amendments are all about and I hope that we will adopt these amendments, that we will advance this bill.

PRESIDENT: The Chair recognizes Senator Lamb.

SENATOR LAMB: Mr. President, members of the Legislature, I rise to oppose the amendment, to oppose the bill. I think what we are seeing here is just the first step in a con-

centration of economic power that we will all regret. Senator Cullian has said that these amendments provide protection, that the concentration will not be too great. I disagree. We start out authorizing nine banks and where does it go from there, nine banks and nine percent, but this is once the floodgate is open, then there will be no end. There will be a continuing legislation as time passes to relax these restrictions. I have heard a lot today about the problems of bankers but we have heard very little about the situation in regard to the populace. I ask you this, how many people have talked to you lately that said they are having a problem getting the money that they need to operate their farm or their business at a rate that is comparable, is reasonable in this day and age of high interest rates. I will bet that there are very few, almost none. This state is very fortunate in that the banking industry has taken good care of its customers. The farming industry has been well supplied with capital at a reasonable rate. The small businesses have had the same opportunities, have had the same advantages. I submit to you that as we move into multibank holding companies there will be less of the...there will be less consideration to the plight of the businessmen, of the farmer, of the rancher, and I submit that those people are now being well served, better served than most other states in this Union. We have noticed that some of the large banks have changed their position. I submit that most of the smaller banks, most of the customers of banks in this state have not changed their position. I ask that this amendment be defeated, that the bill not be passed.

PRESIDENT: The Chair recognizes Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker and colleagues, I would like to speak just briefly in favor of the DeCamp amendment and in favor of the bill then as amended by Senator DeCamp's amendment. Now I previously opposed this legislation. The last vote that we took on this concept was two years ago and I voted against the bill at that time for two reasons. First of all it seemed to me that the proponents of this legislation had a heavy burden to justify the change in the banking structure that this bill would bring about and, secondly, I felt that if I didn't know enough about an issue, which I didn't feel I did at that time, it really was better not to take a position in favor of significant change. Now over the last two years I have studied this issue carefully, more carefully than most, and I have worried about it a lot and I have thought about it a lot, as we are inclined to do so in this body when the really tough issues come along, and I have attempted to sort out all the pros and cons and

have come to the conclusion that this indeed is a good piece of legislation and that we should pass it. Now let me tell you a little bit about the conclusion I came to on the burden of proof issue. I indicated earlier that I felt two years ago that the burden was on those who were proponents of this legislation to show that it was good. Well, frankly, my feeling about that has changed and my feeling now is that there is a heavy burden of proof on those who would oppose this legislation to show that we should not make this change in the banking structure. Now as you all know in the State of Nebraska until 1962 or 1963 there were no such restrictions on bank corporations in terms of expansion and acquisitions. And it seems to me when you get a little bit of distance on the issue and think of it in philosophical terms, why what it really comes down to is that those who would be in favor of restricting the operation of our free market economy in this particular area are the ones that have the burden. I have serious reservations about generalists like us in bodies like the Nebraska Legislature laying down blanket rules that banks can or cannot expand in a certain fashion which inevitably significantly distort the way the economy, the shape of the economy in future years. Now as I indicated, in 1963 these restrictions were laid down for the first time in the history of Nebraska and those restrictions have basically stayed in place the last eighteen years. And it seems to me that we should not reaffirm the decision to leave these restrictions in place, these restrictions on the banking industry and ultimately on the Nebraska economy, unless there are strong reasons, strong public purpose reasons, for restricting natural growth and change in this particular industry. Now grant you the banking industry is a heavily regulated industry but the regulations that we know of in the banking industry are really of a different type than this kind of restriction that is imposed by the law that Senator DeCamp's bill would amend. It is different qualitatively and it is clearly different in the magnitude of persons, and farmers, and the banking institutions that it affects. Now what I have tried to do the last year, year and a half and two years is to answer this public policy issue. Is it really good public policy for this Legislature to violate the normal rules, which is that we don't interfere with the free market economy in this state for the purposes stated by those persons who would favor this kind of legislation and I have come to the conclusion that it is really not, that from a public policy point of view, there are not enough reasons in favor of imposing these restrictions on the economy to justify our doing it in this particular body. Because when we pass laws like this that

tell banks that they cannot expand, laws that thwart the natural growth in any segment of our economy, well, we are acting as economic planners and we are acting as more than just lawmakers but we are making decisions that really fundamentally shape our economy and I think before we, again, as generalists, we are not economists, we are not...most of us are not bankers, most of us frankly don't fully understand the ramifications of these kind of rules, and I really don't think that we should be passing that kind of legislation unless we clearly understand the ramifications it is going to have. I don't think we do. I don't think arguments that this has been in the best interest of the state over the last eighteen years are persuasive.

PRESIDENT: Time is about up, Senator.

SENATOR HOAGLAND: Thank you, Mr. President, and I think that it really makes sense at this time to relieve these restrictions as much as the political climate will permit because, again, I just don't think it is our role to interfere with the free market economy to the extent that these kinds of blanket regulations do. Thank you.

PRESIDENT: The Chair recognizes Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I find this to be a troubling issue, more troubling this year, I think, than it was in the previous two years, just as I was more troubled this year over the credit card legislation and the usury legislation than in the previous two years. Now the trouble comes with federal changes. When the federal government in effect encroaches our prerogatives and our powers, do we have to respond? Now one of the things that is clearly happening in the financing arena is that the federal government by changing the savings and loan laws and by changing the depositor act and by making other significant changes frankly is changing the face of our financing industry and the real question is, will this state be prepared for the changes that the federal government, in effect, is working? And I yet don't know the answer to that but I am also troubled by the so-called compromise amendments because what I see in the compromise amendment is this. I see simply a handful of bankers getting together and saying these compromises are the best results for individual banks under individual situations. I do not see a handful of bankers getting together saying these compromises are the best results for the depositors, for the borrowers, for the consumers and for the people of the State of Nebraska. I have been driving back and forth every day between Omaha and Lincoln.

I spend a quite a bit of time in the car thinking to myself about this legislation, saying, "Johnson, what do you do this year? How do you handle it this year?" It was easier other years because we didn't have major federal changes and I have said to myself, "I have got to consider certain facts. The first fact, I have to make certain of is that entrepreneurial and on-going business credit be available. Banks have traditionally provided that function. Banks have traditionally been the source of our venture capital and traditionally have been the source of our business capital and I can't take any steps that undermine that condition" and I say, "It has got to be available locally and it has got to be available at a reasonable cost to the borrowers." We all know what is happening right now in the home loan industry with interest rates being where they are. It is causing that industry to wither and die on the vine and the question is, can the same occur in the business community by virtue of high cost of money. Then I ask myself, "Will the kind of banking legislation that we look at tend to draw your traditional saver into the banking institution, because we need to have people put their money across the counter for it to be saved because that money saved means money to invest in the future of our people and our state?" Then I ask myself, "I have got to support legislation", says I, "that will ensure widespread ownership of our financial institutions". In fact one of the things that has always been the most troubling to me about our bank structure is our bank structure has permitted chain banking so very wealthy individuals can own more than one bank, and the little person, the ordinary person, doesn't have a crack at it, and the best way for the ordinary person, frankly, to get a crack at the ownership of financial institutions is through shares in a corporation. So I say I want to make certain that our financial institutions that the wealth is fairly wide distributed, so that there is widespread ownership of the financial institutions. Those are some of the principal points that I have had in my own mind but I look over these compromise amendments and I say, "I don't see in these compromise amendments the answers to those questions". For example, 376 as initially drafted calls for two full service facilities in cities and villages.

PRESIDENT: Half a minute, Senator.

SENATOR V. JOHNSON: It goes in the committee amendment from two to three. The compromise takes it from three to four. But there has been no justification, frankly, for the two

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facilities, for the three facilities or the four facilities. I don't know how those answer that question. The compromise amendments allow one outstate holding company to do business in Nebraska, Northwest Bancorporation, specifically named, not in the amendment but in the material, but there are other out of state holding companies that have substantial ties and roots to this state. Maybe they should be allowed in as well if we are really going to look at the package in toto.

PRESIDENT: Time is up.

SENATOR V. JOHNSON: At this time, I suggest we oppose the amendment and try to frame good consumer and depositor oriented legislation.

PRESIDENT: The Chair recognizes Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman, I would call the question.

PRESIDENT: Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. The question is, shall debate cease on the DeCamp amendment to LB 376? Have you all voted? Record the vote.

CLERK: 25 ayes, 9 nays to cease debate, Mr. President.

PRESIDENT: Motion carries. Debate ceases. Senator DeCamp, you may close on your amendment.

SENATOR DeCAMP: Mr. President, members, just real briefly, what we are talking about now is simply the amendment and it restricts a little more the multibank aspect. The argument that has been raised by Senator Vard to do with four facilities is certainly something we can look at. The issue raised by Senator Dworak earlier, something that if you are going to deal with multibanks should be examined. It is my belief that whether you are for or against the concept, probably the amendment makes sense to you at this time, and I would hope that if the amendment is adopted that those who believe the multibank issue should for the first time be kind of in detail addressed and forced to be discussed reasonably among the bankers would vote at least to advance the bill at this time. I believe, personally, that if the bill were advanced, you would find the bankers sitting down and working out some of the wrinkles and things that Vard and others have talked about, and I think you would see this issue pretty well come close to getting settled this year and I don't think there is any issue that anybody wants to get settled more than this one.

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All the legislation is is a vehicle for finally kind of settling it. I urge adoption of the amendment.

PRESIDENT: The question is the adoption of the DeCamp amendment to LB 376. All those in favor vote aye, opposed nay. We have two excused, Senator DeCamp. One. Only one. We have forty-eight here. Senator DeCamp, what do you wish to do?

SENATOR DeCAMP: I guess it would make sense to probably, because the issue will have to be voted on itself one way or another, with or without the amendment. The basic issue is multibanks. I urge us to have, what, a Call of the House.

PRESIDENT: All right. The motion is, shall the House go under Call? All those in favor vote aye, opposed nay. Record the vote.

CLERK: 23 ayes, 4 nays to go under Call, Mr. President.

PRESIDENT: The House is under Call. The Sergeant at Arms will secure the Chamber, all members will return to their desks, record your presence, and, Senator DeCamp, do you want to take call in votes or do you want to...as soon as we get some showing of presence, why we will take call in votes. Who is not here. Senator Chambers, Senator Goll. Senator Goll is here. Senator Chambers, Newell. Senator Chambers I believe is it. Senator DeCamp, we only have Senator Chambers to go. Okay, you want to take call ins. Go ahead, take call ins.

CLERK: Senator Newell voting yes. Senator Labeledz voting yes.

PRESIDENT: Record the vote.

CLERK: 25 ayes, 19 nays, Mr. President.

PRESIDENT: Motion carries. The DeCamp amendment is adopted. Any further amendments on the desk, Mr. Clerk?

CLERK: Nothing further on the bill, Mr. President.

PRESIDENT: Senator DeCamp, I don't believe you have had a chance...all we have done is talked about the bill but do you wish to make any general statement about the bill at this time as the introducer?

SENATOR DeCAMP: Mr. President, simply to say what we have

got now is a multibank bill, a very limited one, quite frankly, and some structure change in the area of branching, citywide branching. I would urge adoption to Select File and I am going to be very frank with everybody, suburban bankers, ONB, U.S., First National of Lincoln, everybody, should it happen to advance, I am going to make sure that no matter who you are we sit down and have a discussion as to what we are talking about in terms of the branching aspect in detail, the multibank, if there are some additional limitations or variations there of the branching, and I really believe you are going to see some people sit down at the table and talk should it happen to advance that previously have not discussed it, have not talked, have simply been at loggerheads. Whether you ultimately decide to support it or not I think, just voting to advance it pretty well is going to make the bankers sit down and talk for the first time.

PRESIDENT: All right, the Chair now recognizes Senator Hefner speaking to the bill.

SENATOR HEFNER: Mr. President, members, I rise to oppose this bill. As you know I have been opposing the multibanking concept ever since I have been here and I believe I will continue to do so unless there are a number of reasons that I believe that I shouldn't be opposing it. I think the banking industry in Nebraska has been doing a good job, at least it has in the rural areas where I do most of my business. Why do we need a change? Why do we want a change? I think we have a healthy situation the way it is now. The banks in Nebraska are serving the communities needs. I cannot recall one phone call that I ever received from farmers or businessmen or individuals that want this change. It is only a few of the larger banks that want the change. The businessmen, the manufacturers, they are not dissatisfied with our banking system that we have. The 400 or 450 or maybe it is 475 commercial banks in Nebraska are doing a job that we are satisfied with. They take care of the banking needs that we need. Usually local and independent bankers are leaders in a community, and if they see an opportunity for the community, they will do their best to see that the financial needs are made so that this development can become a reality. I realize that sometimes we are short of money in a rural area and I have talked to the bankers in my community about it. But they say all they have to do is go to a corresponding bank and they can get the money for us. I think that our banking industry is effective. It is healthy. It is doing a fine job for the citizens in the State of Nebraska and I say, "Why not keep it that way?" I have quite a few banks in my district.

The largest town in my legislative district is around 1600 population and there is not one bank, not one bank in my legislative district that supports this bill, and ninety-five percent of the bankers in Nebraska do not want a change. The banking industry or the majority of the banking industry does not want multibank holding companies and so I say, "Why should we, as legislators, change it?" Do we want the larger banks to get larger and the smaller banks get smaller or go out of existence? I say no to this. Let's keep the banking industry as it is. Let's not concentrate the wealth of our state in just a few banks. Colleagues, this is a major change in the banking industry. Let's not vote to advance this bill.

PRESIDENT: The Chair recognizes Senator Higgins.

SENATOR HIGGINS: Mr. President and members of the body, I doubt if there is a Senator on this floor that has not been lobbied either by a lobbyist or a banker to vote for or against this bill. I listened to the debate. I heard my good friend Senator Schmit say banking and business industries must change. I have to speak to you from my perspective, where I have experience, in insurance. In 1966 when I went into the insurance agency business, we represented thirty different insurance companies. In one year, Continental Insurance Company, you know, the one with the little Minuteman on it, bought out five companies that I represented. The fieldman for Glen Falls Insurance Office was in my office one day and I said, "What is this I hear, Tom, about Glen Falls might be bought out?" "Nothing to it, Marge." That night I went home, picked up the World Herald, read the business page and there it says, "Continental Insurance buys Glen Falls". I am talking to you, Senators. Forget the bankers, forget them. They are only one vote if they live in your district. People are saying your constituents don't care what you do with this bill. They don't understand it. Go with the bankers. They are going to understand it when the little banks are shut down and they are going to understand it very well when they have got one, two or three places to go to shop interest rates and then they are going to say, "How did this come about?" And you know what they say, whoever is in office, I am against them if they are responsible for taking our little bank out. Schmit says that the banking industry has to keep up with the changing times. Let me tell you how the insurance industry kept up with the changing time. The Insurance Director has to approve the rates the insurance companies charge. Well, when they couldn't get any higher rates, what did they do? Now, remember, I am speaking as an insurance agent. They said, "Fellows, we can't raise

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the rates any more so let's make it mandatory that everybody has to insure their home for eighty percent of what it would cost them to rebuild it at today's material and labor prices." So what did that do? The rates stayed the same but the premiums went sky high. They knew what was good for their industry. They changed it, didn't they? Senator DeCamp says the bankers that have studied this bill, they are going to vote for it. I say, you had better think about when you go back home and how many people are going to remember what you do here today. And when those banks close up in the small towns and you farmers have to come to Lincoln or Omaha and the big boys say, "Well, we will take your barn and your house and your pigs and your cows and your wife, and then we will give you a loan at twenty-five percent". That is what this bill comes down to. This Senator isn't going to forget her constituents. When they come crying to me that they can only get one rate, that they miss the little bank that they used to do business with, I am going to say, "I didn't vote for the monopoly. I didn't vote against the little bankers. I didn't go with the big guys. I stayed with my people." So don't you let any banker or any lobbyist tell you that your constituents don't count on this bill, that they don't understand it. Maybe they don't today but they might the day you have to run again. Thank you, Senators.

PRESIDENT: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President, I call the question.

PRESIDENT: The question has been called for. Do I see five hands? I do see five hands. All right. The question is shall debate cease. All those in favor vote aye, opposed nay.

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Have you all voted? This is on cease debate. Senator Cullan.

SENATOR CULLAN: Mr. President, if that many people want to discuss it, let's discuss it.

PRESIDENT: All right, record the vote. We only have about...

CLERK: 21 ayes, 18 nays, Mr. President, to cease debate.

PRESIDENT: All right, the motion fails. Senator Lamb.

SENATOR LAMB: Mr. President, members, I think I should just say amen to Senator Higgins speech but I do want to make one point. I have in my hands here two roll call records taken today in this body and I think they are absolutely contradictory. One of them is the vote on LB 184 which advanced this morning. This is Senator Burrows' corporate farm bill which indicates that there is an uneasiness in this body about the concentration of farm land in corporate ownership and so this body has decided that that bill has merit, was advanced this morning, that would limit corporate ownership of farm land. Then in my other hand I have the record of the vote on Senator Barrett's amendment to LB 376. Senator Barrett's motion would have stricken the multibank provisions from LB 376. Now some of the same people that voted for the corporate farm bill voted against Senator Barrett's bill. As I see it, this body is saying today that it is less concerned about the concentration of economic power than they are about the concentration of farm land in corporate ownership. I say that is not a logical position for this body to stand. If you are concerned about the corporate ownership of land you certainly should be concerned about the concentration of banks in the hands of a few people and so I ask that the bill be defeated.

PRESIDENT: The Chair recognizes Senator Hoagland.

SENATOR HOAGLAND: Mr. President and colleagues, let me just complete the remarks that I was making earlier and let me begin by asking this question. How can the forty-nine of us in this Legislature justify passing legislation which would organize the banking industry? This is a particular problem I have. I mean, what special knowledge or information do we have here that enables us to pass laws indicating how the banking industry is going to operate in the next five years, the next ten years, in the next fifty years? And what industry are we going to organize next after we finish with the banking industry? Do we want to organize the insurance industry as Senator Higgins suggests maybe we should organize? Do we want to organize the food distribution industry? What other segment of the economy do we presently organize in the

fashion that Section 8-903 organizes the banking industry? I mean do we really want to place restrictions on what Mutual of Omaha can purchase in the insurance industry or do we want to tell Safeway and Hinky Dinky that they suddenly cannot make any more expansions in the Omaha metropolitan area or statewide? Now it seems to me that the previous decision we made in 1963 when we passed Section 8-903 placing these restrictions on the banking industry was fundamentally incorrect and I think that legislation represented protectionist legislation protecting certain interests and that legislation represented interfering with the operation of the free market economy in a fashion that we simply should not be doing here unless we fashion ourselves to be economic planners or social planners or unless we fashion ourselves as being able to anticipate natural required changes in the economy better than the economy itself can anticipate those. Now, we all have been hearing from year to year that there may come a time when the large national banking corporations are going to be permitted to expand beyond state boundaries and if there comes a time when federal law is loosened to permit the large national banks that are located in New York and California to begin purchasing countrywide, it seems to me that our Nebraska corporations, the Omaha National Banking Corporation and other Nebraska corporations and Banco for that matter, have got to be in a position of financial strength that they are going to stave off those mergers. Otherwise there may come a time when all of our banks are going to be owned by, not just Nebraska corporations, but by New York corporations and New Jersey corporations and California corporations and that is not going to be in anybody's interest. Now as I indicated, I don't think we need to protect the small banks in this state anymore than we should be passing legislation to protect the Mom and Pop grocery stores from Safeway or the hardware store from K-Mart or Pamidas. Now I can sympathize with the plight of those small organizations that want legislative protection like foreign trade barriers but I am more worried about preserving the fundamental principles of our free enterprise system which is competition and free access to markets. Now I think that the corporations that would benefit from this legislation, Omaha National Bank and the U.S. National Bank in Omaha, will act responsibly. I think they have acted responsibly in the past. I think they have to act responsibly or they are not going to get the customers to be able to do the kind of business they have done in the Douglas County area in recent years. Now I think those organizations have a salutary record of contributing to our economy and to our public interest organizations in our part of the state as do their adversaries, but I think they are responsible citizens. I think it is wrong for us in passing laws like Section 8-903 to assume they are going to act irresponsibly and to shackle them. And I say we should

lift these restrictions unless an exceedingly strong case can be made for maintaining them and frankly I don't see that that case has been made here today. Thank you, Mr. President.

PRESIDENT: Before we go to the next speaker, the Chair takes pleasure in introducing guests of Senator Fowler, Mr. and Mrs. Huan Kyo Lee from Seoul, Korea, guests of Mrs. Magliveras, hosting for Friendship Force. They are up in the North balcony. Would the Lees and their hostess show us where they are. Welcome to the Nebraska Unicameral Legislature. The Chair recognizes Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman, I would just like to say a word to Marge Higgins over here. Marge, I happen to have been a banker and I happen to have been in the position sitting at a loan desk dealing with agricultural loans at the point where I had to say, I'm sorry there aren't any funds available in this bank. There aren't any funds available at any of our correspondent banks because there aren't enough savings in this state and I think we need to recognize that what we are talking about here today is getting the savings of this state into the banks of this state so that those funds will be available. I would venture to say there will be farmers in this state this spring who will not be able to get loans from their small community banks because the funds are not available at the large city banks and I think we need to recognize that thing and start to put our banks in the position to compete with the multiple holding companies as far as the savings and loan are concerned for the savings dollar. I would like to share with this body a letter which I received from a good friend of mine who is not in the banking business, who many of you in this body know, Glenn LeDoyt. Glenn has no banking interests but this is what he wrote me. "Dear Howard, It is good to see you at work on a few occasions when I visited the Legislature this year but I never get a chance to talk with you seriously about certain bills. I have studied LB 376 rather carefully, however, and believe it should be passed. It is my opinion that there is a certain small group of bankers who do not want the existing law changed because they don't want any competition in buying banks as they come up for sale. This gives them a chance as individuals to buy a bank perhaps for less than it is actually worth because they do not have the competition from a bank corporation that would probably pay more. I have seen this actually happen. Inasmuch as I am not in the bank business, my position is totally objective. If I were a small banker, however, and decided to sell my bank, I am convinced that I would be better off to have this bill passed. Certainly if a

local bank does not want to sell, this bill does not in any way force them to do so. If the bank is really for sale, however, this bill would be good for that particular bank. As you are aware there are restrictions within the present bill to prevent existing banks from getting too large. I think it is a good bill. I hope you will vote for it. Sincerely, Glenn LeDioyt." I would just like to say to this body that what we are doing here today is giving the opportunity for our banking industry to grow and for our banking industry to exist and for our banking industry in this state in the long run to compete with the Bank of America, City National Bank in New York, all the Chicago banks and if we sit by and the federal regulations are changed as has been indicated to me this morning, we are going to find that we are going to be sitting here in Nebraska and doing business with banks on both the east and west coast instead of doing business with banks in this state.

PRESIDENT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, members of the Legislature, I have had differing opinions about bills of this type. First of all, bank issues are not my issues. The people I represent would get short shrift from the big ones or the little ones and to us who have nothing, all of them look big. The ones who protest about being so little are constantly trying to get bigger. There are some banks, do you realize, there are at least one that is as big as any corporation but since it is owned by a family that is supposed to exempt them and they can be different although they can do everything the bigger ones can do. It is a strange, strange situation. Now I have never vote traded before or sold a vote but I wonder how much my vote is worth. I wonder how much I can get for my vote and which side will pay me the most. Well how much have they got? I probably ought to talk to the big ones. They have got more money but let me tell you a little story. First of all, I am wondering if Senator Hefner is as sincere about this issue of the banks as he was about the expense issue. Joke, ha, ha. We say things and mean them in high spirits. Now here I am a poor man, representing a poor district. If we would consider this a warfare it would be equivalent to asking me with a bean shooter to enter into the fray between people who have howitzers and machine guns. I have no place there but I have a vote today. Let me tell you this little story. A couple of years ago, to use the style of Senator DeCamp, which borders on that of Paul Harvey, I want to tell you the rest of the story. I was going around the city finding places to cash my state check. So I went to this fine establishment down on 10th and O. I think the initials are NBC. Whatever it is, it doesn't make any

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difference. All banks are the same to me. They wanted to charge me fifty cents for cashing my check and I objected. I felt that since there is state funds in this bank, to charge me to cash the check is reducing my salary by fifty cents and the bank gets so much for handling the money anyway, so I didn't think it was fair. Well, I was approached by an individual and told...who found out that I was going to offer a resolution to take the state's money out of that bank. So something was worked out and the bank decided that they wouldn't charge fifty cents, none of them would charge fifty cents to cash a state check and do you know what those rascallions had the nerve to do? Put out the story that they bought my vote for fifty cents, that that fifty cents deal was why I voted a certain way on a bank bill and do you know, I don't know whether NBC bank is in the family or out of the family. I don't know the difference between the First National Bank and the U.S. National Bank in Omaha. I can't keep them straight. I know that the Omaha National Bank has a name that is the same as the city of which it is a part and that is how I kind of keep it straight but I don't deal much with any of them. But, Senator DeCamp, I will tell you what I am going to do today. I am going to sit and watch how many votes this bill gets to advance. If it gets twenty-four it is guaranteed the twenty-fifth one from me. We are going to find out who will be the fulcrum today. Bankers can't foreclose on me because I don't borrow anything from them. They can't defeat me in my district because I would like to see them come down there and campaign. So, Senator DeCamp, I am going to watch the lights on the board and if twenty-four go up there, you know you have got a twenty-fifth one. Now somebody else can say, if you get twenty-three, you've got twenty-four and so on but I doubt that any of them will be as frank and open as I am about the whole thing. You know my position. I feel that this is not my issue at all but I am more inclined to support the bill than not to support it and for those who think they can buy me with fifty cents, you can forget it. You couldn't buy me for \$50,000, \$50,000,000. There is not enough money in the world to buy me but next time you make a joke, don't play me so cheap and don't think that I won't find out about it and I will always bring to light those things that are done under cover of darkness.

PRESIDENT: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President, for the first time I believe in a long many years, I am going to ask for the question.

PRESIDENT: Call for the question. All right, do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. The question is, shall debate cease? Record the vote.

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CLERK: 25 ayes, 9 nays to cease debate, Mr. President.

PRESIDENT: The motion carries. Debate ceases. Senator DeCamp, you may close.

SENATOR DeCAMP: Mr. President, members of the Legislature, Senator Chambers said it kind of humorously but maybe he said it clearer than anybody has as to the amount of intense pressure and things that go on on this particular issue. I happen to know the incident he is talking about because they are on the other side, for the record, but anyway, I believe like I stated to you, the time has come that this issue can be settled to Senator Higgins and Senator Lamb and Senator Hefner who are as sincere as anybody on it, I am sure. It is a change. Yes, it is a change but I would submit to you to remember this little fact. Senator Clark, Senator Barrett, Senator Hefner are all this morning and during this session demanding, insisting and advocating a branching system that just a few years ago they said would destroy the entire world, would destroy the state, was the most evil thing ever. I think the bill represents an adequate balance between the branching and multibanks that will make the system of banking stronger. Somebody challenged privately here a little while ago something I said. Chicago, Federal Reserve Bank of Chicago, business conditions, it is a study done by them evidence after two decades of regulation multibank holding companies and it says and I will give you a copy if you want, "The weight of the evidence seems to indicate that multibank holding companies have had a slightly favorable impact upon the banking system." And then to address the consumer question that is constantly raised by Senator Nichol and others, what does this do for the consumer? Let me read this. "Multibank holding companies do seem to offer a slightly wider range of services and increase consumer and business credit. Multibank holding companies increased aggregate and..... In the area of pricing it resulted reduced interest rates and that is what we are caring about more than anything else for the consumer, reduced interest rates charged on loans and led to payment of higher interest rates on time and savings deposits." But don't get me wrong, I don't claim to be an expert on it or claim that that is the all encompassing study or anything. I just really believe that, as I say, if this bill in its present form advances to Select File that there may be some additional developments working and they may get it settled and we wouldn't have this albatross around our back next year so I urge you to advance the bill at this time.

PRESIDENT: The motion is the advance of LB 376 to E & R initial. All those in favor vote aye, opposed nay. Senator DeCamp, do you want to...? There is only one excused.

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SENATOR DeCAMP: Sure, I understand that. I just thought rather than have a Call of the House there might be some people floating around that would want to come in, but...

PRESIDENT: I don't think you can talk long enough. I think you'd just as well...I know you can talk long enough but I don't think I am going to let you.

SENATOR DeCAMP: No, I don't want to. I would never do that. You know that.

PRESIDENT: I know that. I know that and I know you wouldn't want to do that.

SENATOR DeCAMP: Well, you know for me to sit here and talk like that would not be...

PRESIDENT: Well, what do you want to do?

SENATOR DeCAMP: I suppose I will ask for a Call of the House.

PRESIDENT: All right. Do you want a Call of the House? All right, let's have a Call of the House. A motion for a Call of the House. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 29 ayes, 7 nays to go under Call, Mr. President.

PRESIDENT: The House is under Call. The Sergeant at Arms will clear the chamber and bring in all those members that are not here. We have only one excused, Senator Beyer, and Senator Dworak has requested a roll call vote so that is what we will have. As soon as everyone is here all except Senator Beyer who is the only one that is excused. Will you all register your presence, please. The House is under Call. Senator Haberman, Senator Nichol, Senator Newell, Senator Marvel, Senator Dworak, Senator Koch. Senator Nichol is the only one now. Senator DeCamp, do you want to wait for Senator Nichol to be here? He is the only one that isn't here. Senator Dworak has asked for a roll call vote so we will have a roll call vote when we are all here. Only Nichol.

SENATOR DeCAMP: So then there is no use, you are not going to take call-ins. He is actually going to have a roll call? Is that what Senator Dworak wants?

PRESIDENT: He wants a roll call vote. It has been requested.

SENATOR DeCAMP: Do we know? Is Senator Nichol excused or is he on his way or do you know where he is?

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PRESIDENT: No, he is not excused. Is he coming? He is on his way?

SENATOR DeCAMP: He probably wouldn't want to miss it. I know how people have struggled to be here.

PRESIDENT: He is on his way.

SENATOR DeCAMP: How nobody would want to miss this.

PRESIDENT: Yes, sir. Senator Lamb.

SENATOR LAMB: Why is Senator DeCamp speaking on the microphone?

PRESIDENT: He is obviously politicking.

SENATOR LAMB: Why is his microphone turned on?

PRESIDENT: And so are you. If I may be so bold, I think both of you are. I know that is a shock to this body but... Senator Nichol is here so we are ready to go. We are ready for a roll call vote then. All those in favor of advancing LB 376 vote aye, opposed nay, roll call vote.

CLERK: (Read roll call vote as found on page 2001 of the Legislative Journal.) 26 ayes, 21 nays on the motion to advance the bill, Mr. President.

PRESIDENT: The motion carries and LB 376 is advanced to E & R initial. Do you have some things to read in, Mr. Clerk?

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LR 181
LB 376, 252, 499, 529,
529A, 412, 451

CLERK: Yes, sir, I do. Mr. President, I have an explanation of vote from Senator Warner.

Mr. President, you committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 252 and recommend the same be....and find the same correctly engrossed. LB 451 correctly engrossed, 499, 529 and 529A all correctly engrossed. Those are signed by Senator Kilgarrin as Chair.

Mr. President, new resolution LR 181 offered by Senators Clark and Beutler. Read LR 181. That, Mr. President, will be laid over pursuant to our rules.

SENATOR CLARK PRESIDING

SENATOR CLARK: LB 412.

CLERK: Mr. President, LB 412 introduced by Senator Newell. Read title of LB 412. The bill was first read on January 20th it was referred to the Revenue Committee for public hearing. The bill was advanced to General File. There are committee amendments attached, Mr. President. The membership considered the bill April 6th of this year. At that time the committee amendments were adopted. There was a motion by Senator Warner that was adopted at that time. I now have, Mr. President, an amendment by Senator DeCamp to the bill.

SENATOR CLARK: Senator DeCamp. Senator Newell, would you like to briefly explain the bill again. A short explanation and then we will let Senator DeCamp take over.

SENATOR NEWELL: Yes. Mr. President, members of the body this is the green belt law, basically there has been agreement on the language of the bill in terms of clarifying just when and how it is to be used. The only issue outstanding at this time is what the interest rate should be in terms of those taxes not paid. Basically the present law says the interest rates will be 6%. The original proposal was to raise that to 14% to be in line with what we have done on all other interest rates, delinquent interest rates. The amendment that I have, I know that Senator DeCamp has an amendment, the amendment that I will be offering I will explain later.

SENATOR CLARK: Senator DeCamp. Oh, are you going to withdraw them?

CLERK: I believe that he is, yes, sir.

May 14, 1981

LB 22, 22A, 144,
LB 144A, 138, 188A,
LB 207, 207A, 253,
LB 466, 253A, 376, 548

SENATOR NICHOL: The amendment fails. Mr. Clerk, do you have anything else?

CLERK: I have nothing further, Mr. President.

SENATOR NICHOL: Senator Labedz, would you like to speak to the bill?

SENATOR LABEDZ: Thank you, Mr. President. I move for the advancement of LB 466 to E & R engrossing, and unless there is going to be some debate, I will offer further comments on my closing.

SENATOR NICHOL: Senator Cullan.

SENATOR CULLAN: Mr. President, just one thing for the record and that is I want to state for the record that I voted against the Marsh amendment, not because I believe that the concept of hospitalization is a bad one, but because we did not have adequate chance to review that amendment thoroughly and sufficiently at this point in time. We may very well sponsor some similar legislation in future years. Thank you.

SENATOR NICHOL: We are now voting on the advancement of LB 466. All those in favor signify by voting aye, opposed nay. Record, Mr. Clerk.

CLERK: 28 ayes, 9 nays, Mr. President.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Motion carried. The bill advanced.

CLERK: Mr. President, a few items to read in, if I may. I have an appointment letter from the Governor. That will be referred to the Executive Board for reference, Mr. President.

Mr. President, a communication from the Governor addressed to the Clerk. (Read: Re: LB 22, 22A, 144, 144A, 188, 188A, 207, 207A, 253 and 253A. See page 2049, Legislative Journal.)

Mr. President, Senator Maresh would like to print amendments to LB 548 in the Legislative Journal; Senator Dworak to print amendments to LB 376 in the Legislative Journal.

Your committee on Retirement gives notice of hearing on gubernatorial appointments for two, Thursday, May 12 (sic).

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LB 3, 11, 11A, 12, 70, 99, 146,
184, 228, 250, 266, 266A, 296,
296A, 310, 328, 328A, 361,
366, 369, 376, 561

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined LB 184 and recommend that same be placed on Select File with amendments; LB 376 placed on Select File with amendments. Those are both signed by Senator Kilgarin as Chair.

Mr. President, LBs. 3, 11, 11A, 12, 70, 99, 146, 228, 250, 266, 266A, 296, 296A, 310, 328, 328A, 361, 366, and 369 are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign LB 3, LB 11, LB 11A, LB 12, LB 70, LB 99, LB 146, LB 288, LB 250, LB 266, LB 266A, LB 296, LB 296A, LB 310, LB 328, LB 328A, LB 361, LB 366, LB 369. Okay, if we may have your attention, the first item will be from the Clerk's desk and the second item will be Senator Warner's. So, Mr. Clerk.

CLERK: Mr. President, I have a letter addressed to the membership from Senator Warner who is Chairman of the Appropriations Committee. (Read. See pages 2052 and 2053, Legislative Journal. Re: Line item vetoes of LB 561.)

SPEAKER MARVEL: Senator Warner, you are recognized to comment on the letter just read.

SENATOR WARNER: All right, Mr. President, again under the provision of the rule, the Appropriations Committee is to make such report, and as the report indicates, there was one item which the majority of the committee did support to offer a motion for override which at the time which will be designated by the Senator representing the majority of the committee's position on that issue. The other portion I might just go through briefly with you is the second and third page which is to give you for your information. Page two that is an analysis of the Governor's line item vetoes points out those vetoes that occurred relative to committee recommendations and it shows what the collective floor amendments were, and the last group indicates the vetoes that were relative to the floor amendments and shows the total dollar amount then of \$728 million to \$74,747 that would remain under the Governor's veto as the legislation now stands. If you look at page 3, headed Financial Status Summary, it is similar to what is on the back of the agenda but in a slightly different form. Above the line at the top it shows again the original committee level of recommendation in those bills. The next shows the allocation for A bills that was originally recommended, that subtotal, and then it shows the amount that was

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LB 523, 376, 412

the tradition of retaining county lines for Congressional Districts, this amendment is as reasonable as moving any counties around that you might have and it does, I think, provide a legal basis on which you could justify the disparity to the extent it does exist on the basis of social, economic and traditional boundaries that Nebraska has had for a hundred and plus years in protecting boundaries of counties to the maximum extent that they can and I would hope the body would support the amendment.

SPEAKER MARVEL: All those in favor of the Warner amendment to the committee amendment vote aye, opposed vote no. Have you all voted? Have you all voted? Senator Warner, what is your pleasure?

SENATOR WARNER: I would like the Board closed, I think.

SPEAKER MARVEL: The doors closed?

SENATOR WARNER: No, the Board. This is an amendment to the committee amendment, right? Senator Hefner may have a motion but I am certainly willing to close the Board.

SENATOR HEFNER: Mr. Chairman, how many are excused today.

SPEAKER MARVEL: Everybody is here someplace.

SENATOR HEFNER: I believe I am going to have to have a Call of the House and a roll call vote.

SPEAKER MARVEL: Okay, shall the House go under Call. All those in favor vote aye, opposed vote no. Record.

CLERK: 19 ayes, 0 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please return to your seats. Record your presence.

CLERK: Mr. President, while we are waiting, I have a letter from the Governor regarding a gubernatorial appointment.

Your Enrolling Clerk has presented to the Governor the bills that were read on Final Reading this morning.

Senator Dworak would like to print amendments to 376; Senator Warner to 412.

SPEAKER MARVEL: Senator Cullan, Senator Warner, Senator Schmit, Senator Howard Peterson, Vard Johnson, Senator Beutler, Senator Fowler, Senator Landis, Senator Vickers, Pirsch, Nichol. Senator Beutler, will you record your

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LB 376

SENATOR CLARK: The motion failed. The bill is not advanced. LB 376.

CLERK: Mr. President, LB 376, there are E & R amendments pending.

SENATOR CLARK: Senator Kilgarin, the E & R amendments.

SENATOR KILGARIN: I move the E & R amendments to LB 376.

SENATOR CLARK: You heard the motion. All those in favor say aye. All those opposed. They are adopted.

CLERK: Mr. President, the next amendment I have is offered by Senator DeCamp but I understand he wishes to withdraw. Senator....

SENATOR DeCAMP: Yes, I'll just withdraw and if you want to go ahead and advance the bill with a voice vote, that's fine by me.

SENATOR CLARK: Is that an indefinite postponement?

CLERK: Senator DeCamp, you had your motion, do you want to do that?

SENATOR DeCAMP: Well, Mr. President, I'll tell you what the motion is. A long time ago I anticipated that, who knows at this critical moment, at this critical day, at this critical hour, there might be a motion to kill, which would lay it over. Now, I thought this might develop a month ago when this was up here, or whenever, so I put this motion to suspend the rules and then have a vote on whether the bill should be advanced or not. You don't like that? But I am going to withdraw that motion. I am a sporting fellow and hope all you other folks are too. So I will withdraw that motion and let's see what happens here for a while.

CLERK: Mr. President, Senator Dworak has an amendment on page 2050.

SENATOR CLARK: Senator Dworak.

SENATOR DWORAK: Pat, are you going to read the amendment?

CLERK: Mr. President, the amendment would read as follows... (Read the Dworak amendment as found on page 2050 of the Journal.)

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LB 376

SENATOR CLARK: Senator Dworak.

SENATOR DWORAK: Pat, I ask that amendment...to put another amendment up there, I ask that it be substituted for that amendment. I was afraid that would be the wrong amendment.

CLERK: All right, Senator. The second one I have got from you, Senator, is on page 2085. It's a full page amendment. Would you like that read as well?

SENATOR DWORAK: If it's in the Journal....it did get printed in the Journal?

CLERK: Yes, sir.

SENATOR DWORAK: What is the page number?

CLERK: 2085.

SENATOR DWORAK: Okay. Senator Clark, and fellow Senators, this is the so-called "hawkeye" amendment. I believe very strongly in this amendment, and I think before I speak on this bill I should sort of indicate what possible conflicts of interest I may or may not have so that I won't be accused of trying to deceive anyone. I do own some stock in the First National Bank in Columbus, which is not a holding company. My wife has some stock in the First National Bank at David City, which is a holding company. I own 46 shares of Hawkeye Bank Corporation which I think today are valued at about \$16 a share so you can see that I'm a significant force in that particular financial organization. But the reason for the amendment is that I very, very sincerely believe that if we are going to have multibank holding company legislation in the State of Nebraska, and I would be less than honest if I told you I really don't know whether multibank holding company legislation will or will not benefit the citizens of the State of Nebraska, I don't know that. But if we are going to have it, if this body in its collective wisdom decides and agrees with the proponents of multibank holding company legislation, then let's let it be competitive. Let's let all the players in. Now I am a strong advocate and a strong believer in the free enterprise system, and I believe competition if it is truly competition best serves the people. Now as I look at 376 in the form it is in, we are restricting it basically to two major banks, Omaha National Bank and Banco, with a two-year lag for Banco. Now I have real problems with this. You know, if this is good, if this is a good system, and it may well be the best system and it may well be what this Legislature

should do, then it certainly can't be wrong to allow many people into the marketplace to create a competitive atmosphere where if the competition is keen enough and intense enough, only the general public can gain, only the general public can benefit. You know, we have heard time and time again on this floor from many speakers the thing that we have to fear is monopolistic type practices. If we have a true competitive environment, then the public gains, the public benefits. You know, it's an interesting thing about this banking legislation, and I gave you my background, my father-in-law in David City used to say, well, we need county-wide branch banking and no more. And Mr. Peck of the First National Bank of Columbus said, we need contiguous county branch banking and no more. And then my friends in Omaha and Lincoln said, we need statewide branch banking and no more. And it just appeared who was going to be the big frog in the pond. Now if we get enough frogs in the pond competing for the flies, then it's a good situation, and 376 in its present form kind of restricts us to two frogs as I see it, ONB and Banco, and I think that is wrong, and I can't support that kind of legislation. I can't support it. Now when I go out in the rotunda and I ask the powers to be what's the matter with Hawkeye Bank Corporation? Hawkeye Bank Corporation is an Iowa multibank corporation that caters to county seat towns, rural oriented economies, what's wrong with allowing that type of a bank organization into the State of Nebraska? And, quite frankly, the only answer I have received is, they ain't paid their dues. And I said, what do you mean they don't pay their dues? Well, multibank legislation has been around in one form or another since 1967 and we have spent about \$100,000 a year and they are Johnny-come-lately and this is the first year they put their hat in the ring. I don't know exactly what the intent or what the purpose of this Legislature or what mission this Legislature is on, but if it is monogrammed ties, silk suits and Cadillacs for lobbyists and that essentially is the end result, I have a little problem with that. I don't see anything wrong with the Hawkeye amendment. Philosophically it fits Nebraska. Twenty-five percent of the stock of Hawkeye is owned by Nebraskans. These are Nebraska people. This makes infinitely more sense than a Minneapolis based company to me. So I think the Hawkeye bank amendment is a proper amendment on this bill and I want to make another thing clear. This is not a harrassing amendment and I have been accused of that...the only reason you are introducing or carrying the Hawkeye Bank amendment is because you want to kill the bill. And that is as far from the truth as anything that I have heard said. I believe in this.

I believe that it is going to increase the competitive situation, and there are other holding companies that potentially could come in under this amendment. This amendment isn't exclusively uniquely Hawkeye. There is potentially eight more holding companies, nine more holding companies now doing business in Iowa that could come in, the Emerson Banco, the Citizens Cooperation, Decatur Corporation, Humeston Corporation, Boone Bankshares, Southwest Company, Nordbrock, and potentially there could be some on the other end of the state, and I am not familiar with them, but Wyoming, Colorado conceivably could allow...or this could facilitate those holding companies from coming in. So in its attempt to expand, its attempt to make it more competitive, if I had my way and if I thought I had a chance, I could very easily be talked into letting anyone come into the State of Nebraska rather than restrict it to the large two. So I urge you to seriously consider this when you go back to your people...you know, we represent....

SENATOR CLARK: You have one minute left.

SENATOR DWORAK:bankers, there is no question about that, but not the exclusion of the people. You know, we want to do the right things for banks. We want banks to be profitable. We need banks, there is no question about that. They are not the bad guys. But we also represent people, and to try and create a competitive environment for people to be served is good social policy. It is policy this Legislature traditionally has followed. So I very strongly urge you to support this amendment.

SENATOR CLARK: Senator DeCamp. Senator Johnson. Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker and members of the body, before I begin my formal presentation, I have to make some disclosures. I am fairly poor but I did buy ten shares of stock in a community bank in Nebraska in 1974 and that was a community bank, minority owned bank. I don't think my shares have appreciated in value but I still have them. It doesn't make me an expert on banking, but it does make me an expert on not getting dividends from my stock. I support the Hawkeye amendment. Now I support it because I think the existing law is special legislation. The existing law grandfathered in the one multi-bank holding company now in Nebraska, which is Northwest Bancorporation, and not only does it grandfather it in but it allows that one out of state holding company to continue to acquire additional banks. When I look at the

Nebraska Constitution, when I look at Article III, Section 18, it says, the Legislature shall not pass local or special laws in any of the following cases, that is to say granting to any corporation, association or individual any special or exclusive privileges, immunity or franchise whatsoever. Now what we have got in 376 right now is an exclusive franchise to one out of state holding company, Northwest Bancorporation. You can look at the bill. It says if you were an out of state holding company as of December 31, 1978, then you have the privileges of the bill. But if you were an out of state holding company after December 31, 1978 in Nebraska after that time, then you don't have any of the privileges of the bill. Now I think that is just genuine special legislation. One of the things that Senator Dworak does with his amendment is he says, these opportunities for out of state corporations shall be broader than just covering Northwest Bancorporation. It will cover Hawkeye Bancorporation and any other out of state corporations that meet the terms of his amendment. His amendment does require the out of state multiholding company to have some nexus with the state by having certain numbers of shareholders and directors actually reside in Nebraska. So it won't be every east coast holding company and every west coast holding company that can come into Nebraska, it will only be those with some established history to the state, but it will certainly be broader than that which we presently have. I think Senator Dworak has very adequately framed the whole issue regarding competition. I happen to agree with that point of view. If, in fact, we are to open up our banking structures, then we ought to allow competition to hold the day, and that means you have got to allow more than one out of state holding company to continue to get more branch banks and more banks and what have you. And for that reason I think it is a good amendment. In my opinion, if the bill advances as it is, somebody surely will challenge and could very well be successful with the point that as applied to Northwest Bancorporation the bill is an unconstitutional grant of a special privilege to that company.

SENATOR CLARK: Senator Dworak, do you wish to close?

SENATOR DWORAK: Mr. President, just to say that I concur with Senator Johnson's observations. I think the bill has constitutional problems if it is not expanded. I think it is a grant of special privilege for obviously one, just one out of state multibank holding company. I think that is a serious question that is going to have to

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be addressed by this Legislature and if not and if ignored by this Legislature, it will be addressed by the courts and I think you can be assured it will be taken to the courts because of the money that's been spent on this bill right now of pro and con, and one law suit certainly isn't going to be a deterring factor. I think the Hawkeye Corporation philosophically fits Nebraska. I think they are the kind of people that understand agriculture, understand agribusiness. I think they are the kind of people that take a look at county seat towns which makes up a vast, great amount of area in the State of Nebraska. I am a little bit concerned about the current Lincoln-Omaha domination. I truly believe that this philosophy is needed in the State of Nebraska and I urge the adoption of this amendment.

SENATOR CLARK: The question before the House is the adoption of the Dworak amendment. All those in favor vote aye. All those opposed vote nay. Voting on the Dworak amendment to 376. Have you all voted? Once more, have you all voted? Senator Dworak.

SENATOR DWORAK: I'll have to have more voters than 24. I think we ought to get a record on this, Senator Clark. I would ask for a Call of the House and a roll call vote and we will move on along.

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

CLERK: 15 ayes, 2 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All legislators will take their seats and please check in. If you are sitting in your seats, would you please check in? Will you please check in? Senator Beutler, would you check in? Is Senator Landis over there? Senator Chambers and Senator Hefner. We've got Senator Hefner. Call the roll.

CLERK: (Read the roll call vote as found on page 2158 of the Legislative Journal.)

SENATOR CLARK: The Clerk would like to verify votes.

CLERK: Mr. President, voting yes, Senators Chambers, Cope, Dworak, Fowler, Goll, Hoagland, Johnson, Johnson, Lamb, Maresh, Remmers, Sieck, Stoney, VonMinden. Voting no, Senators Barrett, Beutler, Beyer, Burrows, Carsten,

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Cullan, DeCamp, Fenger, Fitzgerald, Goodrich, Haberman, Hefner, Higgins, Kahle, Kilgarin, Koch, Kremer, Labedz, Landis, Marsh, Marvel, Newell, Peterson, Peterson, Pirsch, Rumery, Schmit, Vickers, Warner, Wesely, Wiitala. Not voting, Senators Chronister, Clark, Nichol and Wagner. 14 ayes, 31 nays, Mr. President.

SENATOR CLARK: The motion failed. It is not adopted. The next motion.

CLERK: The next motion is to indefinitely postpone the bill and that is offered by Senator Barrett. Pursuant to our rules, that would lay the bill over, Mr. President. I do have a motion from Senator DeCamp to suspend Rule 7, Section 3, so as to consider the kill motion today.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, that just seems to me to be the kind of fair way to do it.

SENATOR CLARK: Well, the bill is laid over.

SENATOR DeCAMP: I know I have got the odds against me but this is getting ridiculous.

SENATOR CLARK: I'm sorry.

SENATOR DeCAMP: The question before the House is the suspension of the rules. All those in favor vote aye. All those....Senator Dworak, did you want to talk on that? Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I am going to have to assume the role that I just gave Senator Beutler today, keeper of the rules. But just as I have been against suspending the rules on everything else today, I am against suspending the rule on this one, and as I did on General File, if they had 24 votes I would give them the 25th one. So, in a sense, you could say I am for the bill. But if they didn't get that many votes, maybe you would say I am against it. But right this minute who can say for sure what the situation is. But this one thing is certain, we ought not to suspend the rule and I think this is a bill which is going to put everybody's feet right to the fire, and it is convenient in the Legislature because you don't always have to stand and declare yourself in the way that I am doing now. All you have to do is sit silently and push a button or not push it. But, nevertheless, the board will light up and we will see exactly what everybody has done. But because

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I am interested in human nature, psychology. I like to see more than just an act, I like to find out if I possibly can what is the motivation behind the act. Now I know and understand full well what Senator DeCamp's position is because he has declared himself on the bill. I know what Senator Barrett's position is. So there is no doubt about those. And there are a few others whose position I am pretty sure of, but I wonder why at a critical time like this when we spent so much time earlier today debating this very issue under the guise of another matter, there is nothing but silence now. There is silence now. So I am going to vote against suspending the rule and I will tell others to follow their conscience wherever it does lead you.

SENATOR CLARK: The question is suspension of the rules. All those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Has everyone voted that wants to vote? We're still under Call. Have you all voted? It hasn't changed. Senator DeCamp, do you want a roll call? Record the vote.

SENATOR DeCAMP: No.

CLERK: 26 ayes, 16 nays on the motion to suspend the rules, Mr. President.

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SENATOR CLARK: The motion failed. LB 412. Senator Labedz.

SENATOR LABEDZ: May I have a point of personal privilege, please?

SENATOR CLARK: Yes.

SENATOR LABEDZ: Thank you. Before we leave LB 376, I would like to say a few words about the letter that we received this morning, and I consider myself an active and somewhat loyal Democrat, but I have to say somewhat loyal as I have not always agreed as most members of both parties with their party platform. I also realize that we as party members appoint members of the Executive Committee to speak out on issues that are contained in the party platform. I apologize for the letter that you received this morning.

SENATOR CLARK: Senator Chambers, for what purpose do you arise?

SENATOR LABEDZ: I have a point of personal privilege, Senator Chambers.

SENATOR CHAMBERS: Points of personal privilege relate, first of all, to the welfare of the Legislature as a body and, secondly, to something that may impinge on the character of an individual, and since the letter was not written by the Legislature and it was not written against an individual, I think the personal privilege grant at this time is out of order.

SENATOR CLARK: I am going to allow her to talk.

SENATOR LABEDZ: Thank you, Senator. As I was saying, I apologize for the letter that you received this morning. The letter never once referred to an agreement by the Executive Committee which incidentally was not called for a special meeting and some members were called on the telephone, others were not. And I talked to Kathy Kelly. She is our Democratic National Committeewoman of Omaha, who incidentally is equally embarrassed as I am. She talked to our State Chairperson twice and tried to discourage the letter being sent to all the members of this body. As a Democrat, I encourage our party officials to speak out on issues and legislation protecting the Democratic philosophy. I do not believe we should at any time interfere with the banking structure of the State of Nebraska. We did not send a letter out

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as a body or as a complete membership when the banking industry raised the bank interest to 19 percent, or on other issues that affect the Democratic Party in the City of Omaha. I am referring to Governor's overrides, or any human rights issue. We did not send any letters out. We should not be involved in the banking structure of Nebraska and I apologize for the letter as a member of the Democratic Party.

SENATOR CLARK: Thank you. Senator Warner, did you.... for what purpose did you rise?

SENATOR WARNER: No, I thought better of it.

SENATOR CLARK: Senator Higgins, for what purpose do you rise?

SENATOR HIGGINS: Mr. President, I, too, would like a point of special privilege.

SENATOR CLARK: You may have it.

SENATOR HIGGINS: As a former Democratic Chairman of the largest county in this state, I, too, apologize for the letter from DiAnna Schimek in an attempt to influence your vote on LB 376. I deplore her use of my party and the abuse of her position as State Chairman of the party. But the truth behind this letter is this. It was actually dictated by a man who has chosen to run against Senator DeCamp next term. I suppose the defeat of this bill which I am in favor of defeating as you all know, and John DeCamp and I are on opposite sides on this, but I suppose the defeat of the bill would serve some purpose in a political campaign. I have many times voted for a Republican, but I have never actively or publicly supported a Republican for any office.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Yes.

SENATOR CLARK: I would hope that you would be brief in your remarks.

SENATOR HIGGINS: I have about three more lines if that's all right. In all fairness to John DeCamp, if he so desires, I will go to his District as a Democrat and actively campaign for his reelection. I urge all members of the body to vote their conscience on this bill, Republicans and Democrats. Even though I oppose

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the bill, I do it as a nonpartisan Senator and not as a Democrat. Again, my apologies to this body for a leader of my party who tried to interfere in what is nothing but pure legislative business, and I hope you will accept Senator Bernice Labeledz's and my apologies.

SENATOR CLARK: Senator Chambers. I would just as soon not let anyone else speak but I am not going to do that, I will let you have a point of personal privilege also.

SENATOR CHAMBERS: And Mr. Chairman, I would like to characterize mine as a point of privilege for the Legislature. I can understand the feelings of people who call themselves Democrats, but I think we have just witnessed, not by what was said here by the individuals, an abuse of the legislative process and the forum because what was stated did not relate to legislative business at all and that is all that I have to say. Thank you.

SENATOR CLARK: Senator Fowler.

SENATOR FOWLER: I was just going to suggest in the interest of party unity maybe we could move on to the next bill.

SENATOR CLARK: Senator Fitzgerald.

SENATOR FITZGERALD: Mr. Speaker, it is 6:33 and I hate like the devil to break this here convention up, but I would like to adjourn until tomorrow morning, nine o'clock.

SENATOR CLARK: That is not a debatable issue. The only thing I would like to tell you is that we were going to take 412 and then take 423 (sic) which is the Congressional Districts. I'd like to get that passed today. But you can vote your own way. It's not debatable. All those in favor of....I'm going to take a machine vote when we do. Senator Nichol.

SENATOR NICHOL: Mr. Chairman, I was just going to ask, is this the last chance at Select File?

SENATOR CLARK: Not that I know of.

SENATOR NICHOL: Okay.

SENATOR CLARK: I don't know what the agenda is tomorrow. All those in favor of adjourning until tomorrow morning at nine o'clock vote aye. All those opposed vote nay. Senator Fitzgerald, you have got two helpers. We are not

SPEAKER MARVEL: Before we start with LB 376 as the first priority item on Select File, from Senator Sieck's district we welcome 9 students, two, four, five, six grades, Zion Lutheran School, Thayer, Nebraska, Doug Burright is the teacher and they were in the North balcony. Are you still up there? If you are, indicate so and we will welcome you to the Unicameral. Okay. Okay, Mr. Clerk.

CLERK: Mr. President, we last considered LB 376 yesterday. At that time the E & R amendments were adopted along with one or two other amendments, neither of which were adopted. Mr. President, Senator Barrett then made a motion to indefinitely postpone the bill and that is presently what is before us.

SPEAKER MARVEL: Senator Barrett.

SENATOR BARRETT: Mr. Speaker and members, there was some discussion as late as yesterday about my IPP motion as being an effort to hassle the bill. I can assure you that this was not my intent. It has come to my attention that there is another amendment about to be proposed on the bill and I think out of consideration for my colleagues, I believe it is co-authored by Senators Johnson and Dworak, out of consideration for the members of the body at this late hour, I respectfully request that my IPP motion be withdrawn. Thank you very much.

SPEAKER MARVEL: Okay, the Clerk has got a motion on the desk.

CLERK: Mr. President, the next amendment I have is from Senator Vard Johnson.

SPEAKER MARVEL: Senator Johnson.

SENATOR V. JOHNSON: Mr. President, members of the body, Senator Barrett did speak of an amendment that Senator Dworak and I intend to offer and that is not this particular amendment. I'm not sure where the Dworak-Johnson amendment is on the motion list but again, I think in consideration of the sponsor of this bill and in consideration of this need of the body to move with a certain degree of alacrity, I will ask unanimous consent to withdraw the amendment I presently have.

SPEAKER MARVEL: Okay, hearing no objections, so ordered.

CLERK: Mr. President, the next motion I have is from Senator DeCamp. It is your motion, Senator, on...Mr. President, in that case the next amendment I have is offered from Senator Vard Johnson and Senator Don Dworak.

SPEAKER MARVEL: Senator Johnson.

SENATOR V. JOHNSON: Mr. Speaker and members of the body, when I spoke on this bill on General File I indicated that I had been troubled about multibank holding company legislation over the last three years, since I have been here and my trouble was increasing because I could see that changes at the federal level were naturally compelling the state to reexamine its position with respect to multibank holding company legislation. I said the one thing that was distressing me more than anything else about LB 376 as amended was the fact that the bill and the amendments really reflected the will, in my opinion, of a handful of members of the banking community and it seemed to me that if we were to deal honestly and earnestly with the subject of multibank holding company legislation we really ought to try to deal with it in a way that will benefit the depositors in this state, the investors in this state, and those that need credit in this state and that means we really as a Legislature, we really ought to try to fashion what would be a respectable industry position in the area and it is for that reason I at this time am offering, along with Senator Dworak, an amendment to LB 376. The amendment is really quite simple. Let me describe it to the body. The first thing the amendment does is it limits the branch bank facility to three. Under the bill as drafted and as currently amended a bank may have four full service facilities in any city. This amendment takes it back to three which was the initial committee amendment to this bill. It takes it back to three. Secondly, and what I think really is most important and I really do hope I have your attention on this one because this is a very, very important aspect of the overall multibank feature. The amendment alters the percentage of deposits which any multibank holding corporation could have. The bill right now would permit a multibank holding company to have up to 10% of the deposits in this state but, I want you to think about this. The kind of deposits that the bill describes are not what you might have in mind at the outset. They are not just bank deposits. They are savings and loan deposits and they are building and loan deposits plus bank deposits. So, at this juncture, LB 376 would allow a multibank holding company to have in its own banking deposits up to 10% of all of the basic financial institution deposits in the state. Now currently there is 9.6 billion dollars in bank deposits in this state and there is 5.5 billion dollars in savings and loan deposits in this state for a total deposit profile in this state of 15.1 billion dollars. Now you figure 10% of 15.1 billion dollars which is the maximum the current bill allows any one multibank holding company to have and that means any one bank holding company, and I shouldn't say one bank, any multibank holding company with more than one bank could have a total amount of economic wealth in this state of one and a half billion dollars which would represent 15.6% of the total banking

In this state. That is a lot of money. The Dworak-Johnson amendment says, we're not going to look at all of the deposits in the state. We are only going to look at the banking deposits in the state which would be the 9.6 billion dollars in banking deposits rather than the 15.1 billion dollars in all the deposits and we are only going to allow 8% rather than 10%. Now where does the 8% figure come from? Is it totally and absolutely off the wall? No. That is the Iowa standard. As you well know the State of Iowa several years ago passed multibank holding company legislation and the Legislature set 8% of bank deposits as its basic standard. That is not a liberal standard. In fact, as I understand it that standard when applied, for example, to Northwest Bancorporation which is a current out of state multibank holding company in this state, would permit only very small growth and when applied to the Omaha National Corporation, would permit only a very small growth but what that standard would do frankly, is it would probably cause some of the sixty chain banks in this state to alter their form of ownership and they could then become multibank holding companies. So you now have individuals who have held stock in several banks. That has made them chain banks by virtue of their controlling shares in several banks held by individuals and by partnerships. It probably would change to the corporate form of ownership and it would have multibank holding companies. Incidentally, under the current version of 376 if a multibank holding company did hold 15.6% of all the banking deposits in this state and you ended up with five multibank holding companies, under the current legislation you would then have 78% of all bank deposits held by five institutions. Now I suspect personally it would take a long time for that to come to pass. I don't think that is going to come to pass overnight. So what this amendment does is it limits branch banking to three full service banks. Each bank has got to be at least three hundred feet from the next bank because that is basically current law. It limits the total deposits held by any one multibank holding company to 8% of the banking deposits of this state and in addition it changes the definition of control of a bank from 5% ownership of the stock to 25% ownership of stock which basically conforms to the federal bank holding company rules. Those are fairly simple changes. What it does, is it puts the State of Nebraska into a multibank holding company posture. It allows a new way of holding assets in this state which is what 376 intends to do but it puts us in the posture in a much more modest way than the current legislation would do. Is this a good thing to do or is it a bad thing to do? In my opinion, because we are being called on to make a very dramatic and very significant change to the way our financial assets are held in this state, I prefer that that change be done in a moderate, in a go slow, in a conservative fashion so that we can over the next year, the next two years, the

next three years fully assess the kind of change that we have wrought and we can see what effect it has had on the agricultural credit demanding community, what effect it is having on the entrepreneurial community and how it really is affecting deposits and then if we need to go and alter those percentages we can do it. Incidentally, several attempts have been made in the Iowa Legislature to alter the percentages and they have not yet been successful. I would gather the need is yet to be fully shown but it seems to me that the more moderate approach is probably the better approach for us to take. Incidentally, it also...it ends, it really does end this kind of acrimonious dispute that I know Senator DeCamp has had on his hands for a long time and I sure as the devil have had since I have been down here because it really does say that Nebraska will be a multibank holding company state...

SPEAKER MARVEL: You have one minute.

SENATOR V. JOHNSON: ...but it will be in a modest way. It will give us a chance to look at the new way of holding the ownership of stock and holding the ownership of our financial institutions but it will give us the time to proceed with some degree of caution, some degree of care and it truly is a conservative approach. I do commend this amendment to you.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Mr. Speaker, fellow senators, I have cosigned this amendment with Senator Johnson because I see this amendment as another attempt, as another endeavor to fulfill the philosophy that I tried to put across yesterday with the so-called Hawkeye amendment. The intent of the Hawkeye amendment you will recall was to create a more competitive atmosphere in the state by letting more viable players in the state, to create a more competitive posture by allowing Hawkeye and some other banks from Iowa, maybe Wyoming, maybe the western part of the state, to come in and compete. Now this was rejected by this body and I am personally not ready to reject the concept of multibank holding companies. As I said yesterday, I don't know. This could well be the proper banking structure for the State of Nebraska but what the Johnson-Dworak amendment will do now is again create a more competitive type atmosphere by reducing the amount or the size of the competitors which will preclude the giants or the big ones that have a competitive edge. So it is basically, from my perspective, the same philosophy, the same perspective as I approached this situation yesterday. Now this body rejected that yesterday but I still think it is in the best interest of the people of the State of Nebraska to have the most competitive environment possible. The thing that scares me is one or two large organizations cutting up the state, controlling the scene.

That really disturbs me. That bothers me. I fear that. I see this as equalizing, sort of handicapping those larger ones by creating an atmosphere where smaller entities, smaller banks have a more equal footing. I think this is a good amendment. It is offered in sincerity. I would hope we would take this amendment. We would, I know this senator would feel a lot more comfortable about this piece of legislation.

SPEAKER MARVEL: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I rise to oppose the Johnson and Dworak amendments. I think that these amendments basically freeze out one of the institutions that could provide some changes in the financial structure in the State of Nebraska and that is really the only purpose of these amendments. A couple of years ago I offered myself an amendment very similar to the amendment which Senator Dworak and Senator Johnson are now sponsoring. I offered an amendment that limited the rate of acquisition of banks in any one year and also limited total deposits of any one institution to 8% of total bank deposits. Since that time I have had a chance to look at the competitive position of the banking institutions as versus their position as far as the savings and loan institutions are concerned and if one of these facilities in the State of Nebraska did reach the maximum suggested by Senator Johnson and Senator Dworak, they would still be smaller than some of the savings and loan institutions in the State of Nebraska. So they really don't foster the kind of competition for deposits that we would have in the absence of these kinds of restrictions. I see no reason for them and I would hope that you would reject these amendments. One further point I would like to make, Senator Johnson indicated that under his proposal the number of the chain banks throughout the State of Nebraska would be able to consolidate and would be able to form multibank holding companies and utilize that structure. That is true either under the current bill or under the proposal that Senator Johnson and Senator Dworak bring to you. So I really fail to understand the significance of the argument which he presented to us in that regard. The institution which Senator Dworak and Senator Johnson are trying to freeze out, they refer to as an out of state institution, is one which has actually practiced business in the State of Nebraska for, as I understand it, approximately fifty years. So I see no reason to go after that one institution. I really believe that this amendment is nothing more than an attempt to kill the bill. If you want to kill the bill, go ahead and vote for it but what you really ought to do is take up Senator Barrett's motion to kill the bill if that is what you want to accomplish. Let's not mess up LB 376 with this type of an amendment. If you want to kill

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the bill do that but I think that it is a good concept. I see no reason for the Johnson and Dworak amendments.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, and I really would like you to pay attention for just a couple of minutes to try to make a point and I would like to ask Senator Johnson a question. Senator Johnson, is this the amendment supported by the First National Bank of Omaha?

SENATOR V. JOHNSON: Yes.

SENATOR DeCAMP: It is the amendment supported by First National Bank and it is a multibank proposal. Is that correct?

SENATOR V. JOHNSON: Yes, it is.

SENATOR DeCAMP: And am I to understand First National Bank of Omaha supports a multibank concept if this is the way it goes?

SENATOR V. JOHNSON: Yes, I think I can say that fairly.

SENATOR DeCAMP: Thank you. Fellow legislators, we have all been hustled at one time or another and you independent bankers out there that all know First National is saving and waging the war on your behalf. First National you have just heard is in favor of multibank holding company. First National is, in fact, sponsoring an amendment. They have written it. They have told you it is a good one. Now let me tell you the effect of the amendment. It will create multibank holding in the State of Nebraska for the First National Bank of Omaha and that is about it and that is the God's truth and that is where you are being hustled. You see, Omaha National Bank for example, has one bank and they have a certain quantity of assets, two, three, four thousand stockholders, whatever. They are at a certain level in deposits. Let's take the other side, First National. The owners of that are individuals, a family. They have half a dozen, maybe a dozen, I don't know how many individual separate little holding companies. Under this system and with this limitation and with this design, NBC, you scratch it. First National of Lincoln, you scratch it. ONB, you scratch it and U.S., you go jump in the lake. There is going to be one bank buyer in the state and one multibank holding company and that is First National. They are the only ones with these kinds of limits and these kind of things that could make this work like a charm. They are the only ones that could make it fly perfect and I've got to say, I commend them. They are the

most brilliant people in this state when it comes to finance because they have got the independents, bunches of them, the ones that haven't studied the issue, fighting on their behalf like they are going to the crusades. I would have a lot more respect for my good friend Vard and for Donnie if they put a motion to kill. That would be a lot more up front but to try to create a system where you freeze everybody out except supposedly the arch enemy at multibank and create a system where only they have any effective multibank system seems to me to be kind of a bad policy. I urge you to defeat the amendment. I urge you to defeat the amendment and to you independents that are following that white charger out in front, I would suggest you look where your white charger is headed because he is in favor of multibank for himself.

SPEAKER MARVEL: Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, Senator DeCamp has used a lot of my material but I would just like to say first of all that to have Senator Johnson propose this amendment is somewhat of a reversal for Senator Johnson because I believe that he has been leading the opposition to multibank holding companies and yet as Senator DeCamp pointed out, at this time this would open the way for multibank holding companies for certain banks but it would be limited tremendously and of course it would favor a certain group of people and that is the name of the game if you can secure enough votes to get it done. I admire Senator Johnson for trying and I don't blame him for doing so. In reality his amendment which he says would limit the acquisitions to 8% of the deposits, it is kind of ironic that there are a number of savings and loans in the State of Nebraska that would be twice as large than any bank could become under this proposal. We have talked about it for a long period of time and I have no particular gripe with any other financial institution but one of the things that has particularly intrigued me has been that many many times we have heard the banks complain vigorously and bitterly because of the unfair advantage the savings and loans had on them. Yet today we know that at least two and possibly three of the savings and loans in this state are the largest financial institutions in the state. When Senator Johnson refers to Iowa, I want to point out that the total amount of deposits in the savings and loans in Iowa, Senator Johnson, is far less percentagewise than they are in Nebraska and so 8% or 10% in Iowa has a totally different meaning than it does here in Nebraska. Senator Dworak refers to competition. I want to say, Senator Dworak, that I agree to a certain extent with you and I have been a long time advocate of multibank holding company and the first time that I introduced the bill it was almost considered to be a joke. We couldn't get enough votes to get it out of committee and I would like

to say also that I told my seatmate, Senator Rumery, that it is kind of interesting to me that a great many of the persons who were vigorously opposed to the bill at that time are today champions of the idea. I never claimed to be any prophet but I would have to say that on this floor in the last thirteen years I have carried bill after bill after bill for the banking industry which at the same time that I carried it and in most cases passed it into law, the Nebraska Bankers Association opposed and today they support. I would just suggest that when we talk about competition, Senator Dworak says big competition worries me. Well I want to tell you very frankly and honestly again, everything is relative. You like to always be the biggest frog in your own puddle and I think that Senator Dworak would agree that the banks in which he is interested, they are good banks. They do an excellent job but they are the biggest frog in the puddle in their own town and there are banks in both of those home towns who would like very much to limit the size of those two institutions or to reduce them if they could or to cut them down. I oppose that sort of thing. I think that when we look around and we say, well we are going to pick out this institution or that institution and we are going to say we are going to exclude them and then all the rest of you can compete, it is like having George Brett go to the plate with two strikes on him. I don't think he would consider that fair, Senator Barrett, unless it was in my interest. Then it might be different. I think we have to recognize that either we favor multibank holding company legislation or we don't.

SPEAKER MARVEL: You have one minute.

SENATOR SCHMIT: I think that the best description I ever saw of the whole issue was an article in the paper, the World Herald some time ago in which it said, if you pass the branch banking version, that allows any other bank or allows another bank to establish a branch next to you. If you pass the multibank version it means that they have to buy out your bank. I am not a banker and I don't ever expect to be one but if I were one I would much prefer that I would be able to sell to someone else than to have another institution come in and sit next to me. In conclusion I want to say this. In the State of Nebraska we do not necessarily need additional financial institutions. What we need are stronger financial institutions. I made that statement twelve years ago. I made it eleven years ago, ten years ago and every year since that time and it was no time more necessary and more accurate than it is today and today the high cost of money, the terrific cost of doing business that we face today, the necessity for competition is greater than ever before. The available capital is great. It is greater than it was before and a low cost loan if there is no

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money available isn't worth a darn thing to any businessman, any farmer, any homeowner. So I would suggest that you oppose the Vard Johnson amendment and that we get on with the bill and either vote it up or down but that we not try to cripple along and delay the legislation. It has been a long time coming. It is here today. It is reality. If we don't pass the bill this year you can be sure that next year or the year after multibank type of legislation will be in existence in Nebraska even though the Legislature has not acted.

SPEAKER MARVEL: Senator Landis. The question has been called for. Do I see five hands? Okay, shall debate cease? Do you wish to cease debate? Senator Landis.

SENATOR LANDIS: Well I will ask for a roll call vote if I have to. I guess I will probably need a Call of the House, draw people down from the balcony.

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

CLERK: 11 ayes, 0 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please check in. Senator Burrows, Senator Warner, Senator Kremer, Senator Howard Peterson, Senator Sieck, Senator Kahle, Senator Beutler, Senator Fowler, Senator Cope, Senator Newell, Senator Wagner. Senator Pirsch and Senator Sieck are the... Is Senator Wagner there? Sergeant at Arms, will you see if you can find Senator Wagner. The motion is to cease debate. The Clerk is authorized to take call-in votes.

CLERK: Senator Higgins voting yes. Senator Wagner voting yes. Senator Fitzgerald voting yes. Senator Kahle voting yes. Senator Sieck voting yes. Senator Beutler voting yes.

SPEAKER MARVEL: Record the vote.

CLERK: 25 ayes, 12 nays to cease debate, Mr. President.

SPEAKER MARVEL: Debate has ceased. The Chair recognizes Senator Johnson to close on your amendment.

SENATOR JOHNSON: Mr. Speaker, members of the body, Senator DeCamp asked me in a little floor exchange if this particular amendment was endorsed by the First National Bank of Omaha and I said, yes, it was endorsed by the First National Bank of Omaha. That is correct. Senator DeCamp said, is it true then the First National Bank of Omaha, in effect, is supporting multibank holding company legislation and without any question

it is certainly true, they are supporting this amendment and this amendment does support multibank holding company legislation. I think that frankly is a positive sign. I think it is a positive sign because I think what it really does mean in the end is that virtually all of the major banking institutions in this state have come to the point of realizing that the time is probably at hand for changing the methodology, for changing the methodology of holding control of our financial assets and that is really what multibank holding company legislation is all about. But the thing about this amendment, what makes the amendment valuable is it does not open the floodgates. It genuinely does not open the floodgates to a real takeover of the small banks in this state. It is a fairly, it is quite a tight, I shouldn't say a fairly tight, it is a quite tight cap on the total numbers of deposits and the total amounts of deposits which any one multibank holding company can control. And I genuinely believe that is as it should be because when this state undergoes the kind of change that going from individually owned banks or chain owned banks, what have you, to a multi holding company banking state, it is better if we keep our orange light on and we proceed with some degree of caution and care and not just rush pell-mell into a change overnight. Now it also, the amendment limits the total number of deposits in any one multibank holding company to 8% of the total banking deposits in this state as opposed to 10% of the total financial institution deposits in this state and it also affects branched banks in communities such as Lincoln and Omaha and Grand Island and Columbus and the like and instead of allowing four full service branches it will only allow three full service branches, again, a more cautious approach to communitywide branching. Now Senator Cullan indicated that what the restrictiveness on the total deposits of a multibank holding corporation would do would be, in effect, to freeze out two of the largest financial institutions in the state, i.e., Northwest Bancorporation and the Omaha National Bank. From notes that I have, those two banks would not be frozen out. Their growth would be inhibited but they would not be frozen out and it seems to me as we go into this it is only fit and proper to make certain that growth is carefully tailored and carefully restricted. Incidentally, we froze out yesterday, Hawkeye Bancorporation which has strong ties to Nebraska from coming in as an out of state multibank holding company to own some Nebraska banks and yet we still allow, of course, a bank that has been here or a holding company that has been here for many years, Northwest Bancorporation. I have had serious questions incidentally, regarding the constitutionality of that particular provision and I had an amendment which would have prevented Northwest Bancorporation from buying further banks because I was concerned about the constitutionality but at noon time I spoke with attorneys and I went over it carefully and I concluded that there is sufficiently reasonable doubt cast upon my judgement on the issue to

say I won't. I am not going to bother with the constitutionality of that provision and in some respects I don't need to because with my amendment which is a fairly restrictive amendment, I don't think we will find major growth problems in the existing large banks, but we will provide a very moderate way of moving into multibanking and moving into branching in the State of Nebraska. I ask you to adopt the amendment.

SPEAKER MARVEL: The motion is the adoption of the Johnson amendment. All those in favor vote aye, all opposed vote no. Have you all voted? Senator Johnson. A record vote has been requested. Okay, record the vote.

CLERK: (Read record vote as found on page 2205 of the Legislative Journal.) 14 ayes, 31 nays, Mr. President.

SPEAKER MARVEL: The motion lost.

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

SPEAKER MARVEL: The motion... Senator DeCamp.

SENATOR DeCAMP: Mr. President, I would move the bill be advanced and I would yield my opening time on that particular statement to Senator Hoagland.

SPEAKER MARVEL: The Chair recognizes Senator Hoagland.

SENATOR HOAGLAND: Colleagues, there are just a couple of items I would like to touch on very briefly. I hope I have time to handle them both thoroughly. The first thing I want to do is just make a couple of responses for the record regarding the constitutional issue that Senator Johnson raised yesterday and alluded to again today and then tell briefly a story about why I have come to hold a different position on this bill than I held two years ago. Now Senator Johnson, you will recall, yesterday raised the issue of whether it was constitutional to permit a bank corporation which is an out of state multibank holding company corporation that has been in Nebraska since the early depression years, in 1930, to be included in this bill while other out of state bank corporations which have never been in Nebraska are not being included. Now I think there are a lot of good legitimate legislative reasons for drawing a distinction between Banco, which as I indicated has been in Nebraska since 1930 when they came in during the depression years. It has owned a number of banks from 1930 to the present and has had a very beneficial effect on the economy of the State of Nebraska. Now the bill as is currently written allows out of state bank holding companies which owned at least two banks in Nebraska on December 31, 1978, to acquire additional banks in Nebraska subject to the restrictions of the bill and Northwest Bancorporation was the only out of state

bank holding company so qualified in 1978 and that same situation exists today. Accordingly, it makes no difference whether we use December 31, 1978, or the effective date of the bill as a qualifying date. Now Banco has owned banks in Nebraska since 1929. It and its banks have always been good corporate citizens in this state and as a proponent of this legislation, I think it is proper and I know Senator DeCamp and others agree with me that we recognize this good history and grant to Banco the right to acquire additional Nebraska banks under this legislation as written. Now Senator Johnson also alluded to an Iowa case decided by the United States Court of Appeals in the District of Columbia and let me give a little background about that case. In 1972 Iowa enacted a multibank holding company statute very similar to the one we are considering here. The Iowa Legislature in 1972 similarly recognized the good citizenship of Northwest Bancorporation and its banks and granted it similar privileges as the only out of state bank holding company qualifying under their 1972 legislation. The terms of the Iowa legislation precluded all out of state bank holding companies from acquiring Iowa banks except Northwest Bancorporation which as here in Nebraska, already owned banks in that state. Now this Iowa legislation was challenged in the courts on the grounds that it violated various provisions of the federal and Iowa Constitutions. The relevant parts of the Iowa Constitution had quite similar provisions to the Nebraska Constitution. The U.S. Court of Appeals for the District of Columbia, as I indicated, upheld the validity of the Iowa legislation against all grounds of attack. The Supreme Court of the United States refused to reverse this decision in any respect. Mr. Speaker, what I will do is reserve the rest of my remarks for subsequent time when I can address this bill. Thank you.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Mr. President and colleagues, yesterday I offered an amendment to open it up, to allow more players in, to make it more competitive, to open the house, to let fresh air in. Let's create a competitive environment in the State of Nebraska. Today I cosponsored an amendment to restrict it so that all the players would be more equal in size. There wouldn't be a couple of bullies in the pond. Both of those compromises were rejected. We are back to square one. We have got a situation where two large banks are eventually going to call the shots. I don't think that is competitive. I think that tends toward monopolistic practices. I cannot support this bill in its present form. I tried to the best of my ability to put this bill in a shape that the people of Nebraska would benefit from. That bill is in not that kind of shape right now. This bill is a travesty as far as the free enterprise system is concerned. I oppose it. I

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am going to vote against it. I, in good conscience, cannot go back to the people in Nance, Platte and Boone County and tell them that LB 376 is in their best interest.

SPEAKER MARVEL: Senator Howard Peterson, Senator Nichol doesn't seem to be in the room.

SENATOR HOWARD PETERSON: Mr. Chairman and members of the Legislature, first let me say a word to Senator Dworak. I believe Senator Dworak if you had looked at the material that I handed out yesterday you would have noted that we have 60 chains presently in the State of Nebraska. Family owned chains but in reality they are multibank holding companies. These chains could very rapidly be changed into multibanks, number one. Number two, there is nothing under this bill that would stop someone from coming into this state forming a holding corporation and proceeding to form that holding company and to own banks, so we are not locking anyone out. If Hawkeye wants to come to this state, I see nothing in the bill that would stop them from forming their own corporation under Nebraska and setting under Nebraska statute proceeding to do the things that you suggested yesterday. Number three, there are as we all know, a tremendous number of branches of savings institutions in this state. I handed that material out yesterday. In 1980 there were 38 main facilities and 188 branches. Those savings and loans incidentally have grown tremendously and I am convinced that one of the reasons they have grown is because they in reality have multibank holdings. So it seems to me that if we are going to put banks in competitive positions, which is what we are really talking about, we need this bill and I would urge this body to support the bill and move it forward.

SENATOR NICHOL PRESIDING

SENATOR NICHOL: Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, first I want to correct any impression that I might have given during my speech in opposition to Senator Johnson's amendment that the Nebraska Bankers Association supports multibank holding companies. They do not. I intended to convey the idea that Senator Johnson supported it, I believe that he does support a portion of it, at least some degree of it and at least one of the major banks who have historically opposed it supports the concept. Once you support the concept the rest of it is all relative. I concur to a certain extent with some of what Senator Dworak says. I recognize that there is a problem there. I concur also that it would be perhaps better if there were some way to make everything equitable, but there is nothing equitable in this world and we are all fully aware of that. We talk a lot about equity and we talk a lot about equality and we talk about everyone starting from

square one and moving on. It is not the way the system works. One of the reasons why I have always supported the concept of multibank is because I believe that we need more competition and I believe that we are going to get it. In any kind of business that we have, in my county or any other county, competition rules the roost. Anyone can buy a farm, anyone can feed cattle, anyone can buy a piece of the chicken business or the hog business or the cattle business. You can buy a business, but you can not set up a financial institution, can not set up a bank and I think that that is probably all right. As I said before I do not believe that we need a multitude of financial institutions. I'm becoming concerned because of the fact that we have seen a growth of the various types of financial institutions within this state. We haven't seen anything yet. We have seen the savings and loans grow and they perform a valuable service, but it is not a service that is dedicated towards agriculture for the most part. One of these days the credit unions are going to be taking a larger and larger portion of the deposits and of the available capital of individuals. The industrial banks are becoming more and more of a factor. We can see every day the farm credit system is going to come into this state and take a larger portion of the business away from us. I think that if we are going to be in the ball game we are going to have to do something about the bank structure system this year. I spoke to a banker in Omaha who is not down here, one of the few I believe, and he told me last winter, he said the Legislature makes the rules and I play in that ball park. You make the rules and I will play there. If I don't like the rules I'll get out of the business. But, he said, the legislature makes the rules. I knew that when I got into the business. I'm in it and I may not like some of the things that you do, but the people in Nebraska send 49 of you down there and if I don't like the way you do it, I'll do what I can to unseat you. And that is the prerogative of my banker or anyone else's banker. It is their responsibility, in fact, if they don't think I'm doing the right thing. But it is my responsibility to vote my convictions. That is what I am doing. In reference again to the Nebraska Bankers Association, I want to make it clear that it is easy for an institution to take a position on a certain bill and say this represents the combined thinking of the entire banks in the State of Nebraska. If it is a 49 - 51 vote, that is the way they go, they go with the 51. They do not necessarily say that it represents 49 or 51 or 60% of the deposits, or the financial strength of the institution. As I said earlier, there have been very few major changes in the banking industry since I have been here in thirteen years and at the time they were proposed

were not opposed vigorously by the Nebraska Bankers Association. I am not going to bore you with a recital of the bills, either I or Senator DeCamp have enacted in that period of time which were violently opposed by the Nebraska Bankers Association at the time of first introduction and which are now endorsed and I might just say, endorsed and embraced without very much credit for having given to the origin or the introducer of the legislation. My dad used to say that even a blind hog will find an ear of corn once in awhile.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Your time is up.

SENATOR SCHMIT: I would suggest that we are going to find the day will come when the Nebraska Bankers Association will endorse the multibank concept. I ask you to support the bill.

SPEAKER MARVEL: Before we go to the next speaker, it is my privilege to introduce underneath the south balcony Mrs. Geraldine Blank and Mr. Robert Blak from Senator Hoagland's district in Omaha. Would you indicate where you are so we can welcome you to the Unicameral. Senator Wesely.

SENATOR WESELY: (no response)

SPEAKER MARVEL: Senator Barrett.

SENATOR BARRETT: Mr. Speaker and members, I think my opposition to multibank is crystal clear. It has been from the inception and is today. I oppose the advancement of 376. It has been suggested that this is a compromise. I see no particular compromise in 376 as it now stands as amended. This is a substantially increased version of the original bill which was considered on General File. If you will retrace your steps a moment the amendment which was attached on General File allows a Nebraska bank holding company nine banks by 1988, four full service detached facilities and I mean full service, offering loans, loan applications and any other services that the parent bank can offer. That is 36 banks plus the 9 parent banks, 45 total Nebraska holding company banks by December 31, 1988. Then we went to the Banco situation, you will recall, the out of state bank holding company. Again the same 9 banks, the 4 full service facilities a total of 45. Now that is 90, 90 banks. As I tried to suggest to you on General File the other day that is a substantial concentration of economic and financial power in one or two holding companies. I would also suggest to you that there might be some confusion between multibank holding and multiple banks commonly called "chain banks". Yes,

Nebraska law does permit chain banking at the present time. A chain bank of course is an individual or a group of individuals who own banks so long as they do not form a holding company. The concept of multibank holding company is not to buy the banks for cash as the individuals buy banks under a chain bank holding arrangement, but to simply transfer stock. It is the transfer of stock which makes the tremendous competitive advantage that the multibank holding companies have over the individuals, the chain banks or whatever. All the multibank holding companies do is simply transfer shares of stock and controlling shares of stock in the multibank holding company to the buyer or the seller rather than that sells his to the multibank holding company. The Internal Revenue Service pursuant to, I believe that it is Section 351, has suggested that it is not a taxable event. In other words, it is an exchange of little pieces of paper. It is considered to be tax free. The chain banks have to buy their banks with cash. You can understand the limitations of individuals buying banks after banks after banks, they are soon going to run out of money. The bank holding companies don't have that problem, and this is one of my concerns, that tremendous advantage that they will have. We may very well see the day when individuals will not be able to buy banks any more. The competition is too stiff, the stakes are too high. Of course multibank holding companies are corporations and they live in perpetuity. They don't end. Individuals go to the great hereafter. That stock must be disposed of in some way. I am also concerned because as this bill now stands, I firmly believe that this is the most liberal multibank holding company law, if it is passed, in the entire United States, the previous amendment spoke to it. Own up to 10% of the deposits of banks, savings and loans associations and building and loans. Now if my information is correct that represents about 16.4 billion dollars, if my mental arithmetic is correct that also represents about 1.64 billion dollars. Consider that for a moment. Isn't that a concentration of power. If this bill is advanced, today, we will have advanced a multibank bill further than any other bill like it has advanced in this legislature. We will have also advanced a bill which I believe now, as it stands, in its present form, is the most liberal in terms of conditions and parameters in the entire country. I think that it is a mistake. I think that it is a tragic mistake if this bill is advanced today. Why rush the bill with the ramifications that this bill has. Why pass it today? The Banking Committee has already asked for an interim study on the matter of bank holding companies. If we need it, let's do it.

SPEAKER MARVEL: You have 15 seconds.

SENATOR BARRETT: Why remove the incentive? Why remove the need by passing the bill. Lets go ahead and have the interim study. Then come back and take a look at it next year. If this bill is passed we would have done something that all previous legislatures that have addressed this subject in their infinite wisdom have refused to do. I urge you to vote against the advancement of 376. Thank you Mr. Speaker.

SPEAKER MARVEL: Senator Nichol, do you wish the floor?

SENATOR NICHOL: Mr. Speaker, members of the Legislature, I don't think anyone of us is going to influence any other one of us as to how we make the decision on this particular bill. I would just say two things very briefly. One is, if you want to compare our interest rates which is of interest to the man on the street, now if you ask the man on the street what is a multibank holding company, he won't know. You ask him what rate interest he's paying he will know. But, to compare Nebraska's interest rate with some other state that has multibank holding, I suggest you call somebody in Colorado to see how they compare. I know how they compare but I'll not tell you because I would like to have you find out for yourself. One other point and that is this. If a multibank holding company as suggested by one of you a little while ago controls up to 80% of the assets in the state, would it not be possible for them to control the interest rates on that money. I suggest that it might be true. Just a couple of thoughts in passing for you to think about between now and Final Reading.

SPEAKER MARVEL: Senator Landis. The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed vote no. Okay, record.

CLERK: 29 ayes, 1 nay to cease debate Mr. President.

SPEAKER MARVEL: Senator DeCamp, you are recognized to close.

SENATOR DECAMP: Mr. President, members of the Legislature, in the five or six minutes allowed me to close I would like to quickly address in simple language the arguments raised against the proposal. Senator Barrett, this is one of the most conservative proposals in the United States, the two adjacent states, Wyoming is 20%, Minnesota is up to 40-50% and I could go on. It is one of the most conservative if you want to call it that. The 1.6 billion maximum that would be allowed under this bill that sounds so astronomical how big an institution would become, horrendously huge, that is about the size of Commercial Federal already today. They are growing way beyond that. All this talk about transfer

of stock, immediately this is the reason for multibank, Banco, the big monster, the last five banks they have bought have been cash, no stock involved. One bank holding companies can do the same tax devices that you are talking about a little bit more complicated identical thing can be done. The 19 banks that sent me the letter in my district and said that we are all opposed to this because the end of the world is coming. Nobody can buy if somebody doesn't sell. Are they afraid of themselves or the legislation? If one of them sells it is because they chose to. Free enterprize system? Kind of a catch word that some of you use around here until it gets to the real issues. Nobody is forced to do anything contrary to the news paper ads and the propaganda that is being put out. Bill Smith, you all know him. Strongest, most ardent, most violent opponent of this legislation. Right? We all remember that? He answered the question and I think that he talked to Senator Lamb and some others, this babbling that we keep hearing about, that it is going to take the money out of the country and put it in the city. Bill Smith, the other night kind of blew up and said hey look, you know I studied this issue just about more than anybody and I have been the strongest opponent there is and I don't mind the objections to the legislation but at least lets tell the truth. He said quite the opposite. He said quite the opposite. You know we get X millions now and I think he said we put about three or four or five times that much back into the country, it would increase under multibank. He also said another thing and I didn't know this. He said I'll guarantee you this. You can't find me one study in the whole world, exactly his words, one study in the whole world, one study in the whole world, he said, that would show, you know, that this increases interest rates. Show it to me he said, there ain't none. He said it is something we all tell people and frighten them with, but I do have the evidence and I have handed it out and you have seen it. Federal Reserve studies shows a multibank state has generally lower interest rates for the borrower, slightly higher interest paid on deposits. Now I didn't create that, the Federal Reserve did that and Bobby Clark can laugh and giggle and say all of the silly things, that is what the Federal Reserve in several studies has come up with. You can read it, I can read it, show me the studies to prove otherwise. The best evidence I can give in support of the legislation is simply this. Everyone of the former opponents, who did you all listen to in the past? Bobby Harris, head of the Nebraska Bankers. Bobby Harris was the one that convinced Bill Smith finally to go along with this in the First National. Yes. Former head of the Nebraska Bankers that all opposed it, one after the other, as soon as they get out and study the issue and get involved in it, McBride, Dickinson, Black, all changed and said this is what would benefit the state and benefit

the banking industry and make it function better.

SPEAKER MARVEL: You have one.....

SENATOR DeCAMP: These are the chief opponents.

SPEAKER MARVEL: You have one minute.

SENATOR DeCAMP: Then finally the head of the task force, Jim Oliver, staunch opponent until he studied the issue and looked at it. All we have ever suggested is that you should study it and if you studied it you would learn it's better for the consumer. What did we learn above and beyond everything today? We learned that my good friend Bruce, who I hope we will tip one or two later tonight, maybe, Bruce Lawrence is really honestly in favor of multibank for Bruce.

SPEAKER MARVEL: Senator Barrett, you want a Call of the House and a roll call vote?

SENATOR BARRETT: Yes, Mr. Speaker, I would request a Call of the House and a roll call vote. I would further request that we reverse the order of voting. Please.

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

CLERK: 37 ayes, 0 nays, Mr. President to go under Call.

SPEAKER MARVEL: The House is under Call. Will you please record your presence as we get ready for a roll call vote. Senator DeCamp.

SENATOR DeCAMP: Who is excused?

SPEAKER MARVEL: Senator Maresh and Senator Chambers.

SENATOR DeCAMP: They are officially excused?

SPEAKER MARVEL: Yes.

SENATOR DeCAMP: That is very depressing. Well if my good friend Senator Chambers or Senator Maresh are within distance I wish they would come back.

SPEAKER MARVEL: Okay, Senator Barrett you want to call the roll now? You want the roll called?

May 21, 1981

LB 376, 111, 118, 129,
129A, 138, 523

SENATOR BARRETT: How many are still absent? Two excused? Yes, proceed in reverse order if you would please.

SPEAKER MARVEL: Mr. Clerk.

CLERK: 25 ayes, 22 nays, 2 excused and not voting. Vote appears on page 2206 of the Legislative Journal.

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

CLERK: Mr. President, while we are waiting your committee on Enrollment and Review respectfully reports that they have carefully examined and engrossed LB 111 and find the same correctly engrossed, 118 correctly engrossed, 129, 192A, 138 and 523 all correctly engrossed. (Signed) Senator Kilgarin, Chair.

SPEAKER MARVEL: Senator Landis.

SENATOR LANDIS: Mr. Speaker, I move we adjourn until tomorrow morning at 9:00 a.m.

SPEAKER MARVEL: The motion is not debatable. The motion is to adjourn until 9:00 tomorrow. A machine vote has been requested. All those in favor of adjournment vote aye, opposed vote no. Okay, motion carried. We are adjourned until 9:00 a.m.

Edited by


Mary Turner


Arleen McCrory

May 22, 1981

LR 188
LB 179, 181, 252, 273, 273A, 303, 322,
346, 376, 381, 384, 389, 441, 451, 470, 472A
485, 497, 501, 543, 512, 552, 545, 553, 554.

Senator DeCamp. All those in favor vote aye. All those opposed vote nay. It takes 30 votes.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Once more, have you all voted? Senator DeCamp.

SENATOR DeCAMP: How many are excused? Eleven?

SENATOR CLARK: Two.

SENATOR DeCAMP: Two? Okay, we still stand a shot, so I would ask for a Call of the House and take call in votes if that would be okay. But I would ask for a Call of the House first.

SENATOR CLARK: 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: 19 ayes, 3 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All Senators will return to their seats, and if all Senators will check in, please. The Clerk would like to read some things while we are trying to get everyone registered in here.

CLERK: Mr. President, while we are recording our presence, I have a communique from the Governor addressed to the Clerk. Engrossed LBs 181, 252, 303, 381, 441, 451, 470, 485, 497, 543, 179, 346 and 384, 273, 273A, 501 and 545 were signed by me May 22 and delivered to the Secretary of State. Sincerely, Charles Thone, Governor.

Mr. President, I have an Attorney General's Opinion addressed to Senator Barrett on 376; one to Senator Hefner on 552. (See pages 2228 through 2233 of the Journal.)

Your Committee on Enrollment and Review respectfully reports they have carefully examined 406 and recommend that the same be placed on Select File with amendments; 551 Select File; 552, 553, 554 all on Select File with amendments. (See pages 2233 through 2234 of the Journal.)

Your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 322 and find the same correctly engrossed; 376, 389 and 512 all correctly engrossed.

Mr. President, new resolution, LR 188 by Senator Wagner.

May 27, 1981

LB 12, 172, 242, 302, 321,
344, 376, 411, 488, 494

SPEAKER MARVEL: The House is under Call. All legislators should be in their seats and record your presence. Senator Burrows, will you record your presence? Senator Koch, will you record your presence? Senator Schmit, will you record your presence? Senator Remmers. Mr. Sergeant at Arms, we have two excused and we need to find Senator Schmit. After we have completed this activity, will you please remain. We have an announcement to make. Senator Newell, are you ready for the roll call. Do you want a roll call vote? Okay, call the roll.

CLERK: (Roll call vote taken. See page 2313, Legislative Journal.) 23 ayes, 25 nays, Mr. President.

SPEAKER MARVEL: The motion lost. May I have the attention of the Legislature for just a moment. I would like to read a statement. "The Governor has notified us that he will act on all legislation by Friday, May 29th. Through the Governor's cooperation in taking this prompt action, it will enable us to meet on Friday, May 29, 1981, and adjourn sine die that day." It is now my recommendation that we continue with our original calendar and meet this Friday and adjourn that date sine die. I believe this accommodates most of the members desires. However, please understand that all bills not correctly engrossed at the start of business today, the 88th Day, cannot be considered on Final Reading until the final date, the 90th Day. This proposal allows us to accomplish all goals set forth for this legislative session. If you have questions, I would suggest that you talk either to Senator Lamb or to Mr. O'Donnell. Do you have something you wish to read in?

CLERK: Yes, sir. Mr. President, your committee on Enrollment and Review respectfully reports that they have carefully examined and engrossed LB 172 and find the same correctly engrossed; 242, 302, 321, 344, 411, 488, and 494 all correctly engrossed. (Signed) Senator Kilgarin.

Mr. President, I have an Attorney General's opinion addressed to Senator Lamb regarding LB 376.

SPEAKER MARVEL: Underneath the South balcony, it is my privilege to introduce as a guest of Senator Jim Goll his daughter visiting from San Francisco, Mrs. Sarah Goll Haskell. Where are you located? Will you please stand up so we can see where you are? Welcome to the Unicameral. What is the next order of business, Mr. Clerk?

May 28, 1981

LB 376, 466

PRESIDENT: LB 466 passes with the emergency clause attached. The next bill on Final Reading is LB 376.

CLERK: (Read LB 376 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 376 pass? All those in favor vote aye, opposed nay. Have you all voted? Senator DeCamp.

SENATOR DeCAMP: Mr. President, I would ask for a roll call vote.

PRESIDENT: All right, roll call vote has been requested. All members will please be at your desks. We are on Final Reading. All members will please remain at your desks, and we are ready for a roll call vote, Mr. Clerk. Proceed with the roll call vote. Everybody..(gavel).... everybody be at your desk or we are not going to proceed with the roll call vote until everybody is at your desk. All right, proceed with the roll call vote.

CLERK: Roll call vote. 24 ayes, 24 nays Mr. President.

PRESIDENT: I guess I can vote. I guess I can vote for once. Yes, I can. Thank you everybody for giving me a chance to vote once. Voting aye. Announce the vote. Yes, Senator Chambers.

SENATOR CHAMBERS: The vote had been announced before the Chair voted.

PRESIDENT: No, I had not announced any vote. I said if that is a tie, then I will break the tie. That's all I said.

SENATOR CHAMBERS: Mr. Chairman.....(interruption).

PRESIDENT: How could I vote unless I knew what the vote was?

SENATOR CHAMBERS: And, Mr. Chairman, how would you know if it hadn't been announced? But I just wanted to make that part of the record.

PRESIDENT: That's correct, how could I know. You have answered my question. Okay, read the results.

CLERK: 25 ayes, 24 nays, Mr. President.

May 28, 1981

LB 376, 243

PRESIDENT: Did you read those who voted for and against?

CLERK: Yes, sir.

PRESIDENT: Okay.

CLERK: Would you like me to do it again?

PRESIDENT: No, I guess it's...if it's all been read in.... all right, LB 376 passes. Mr. Clerk...Mr. Clerk, a request has been made that you do reread the names so that it is a reconfirmation, for the record.

CLERK: (Read the roll call vote as found on pages 2367 and 2368 of the Legislative Journal.)

PRESIDENT: The Legislature will....that concludes all the bills for Final Reading on that part. We now have the suspension. Mr. Clerk, do you have some things to read in? All right, we will proceed then with the... there has to be a motion and, Speaker Marvel, are you ready for a motion?

CLERK: Mr. President, the Speaker would move to suspend Rule 6, Section 7(b) to permit consideration of the following bills on Final Reading: 216, 243, 320, 406, 551, 553, 554.

SPEAKER MARVEL: Mr. President, I so move.

PRESIDENT: Motion by the Speaker to.....

SPEAKER MARVEL: Suspend the rules.

PRESIDENT: Okay, do you want to.....Mr. Speaker, before we take up the motion, Senator Hoagland has a bill that he wants excluded. I believe the Speaker could just exclude it if he agrees with it. Senator Hoagland, what is the bill number? 243?

SPEAKER MARVEL: The motion is to take up all the bills, Mr. President.

PRESIDENT: All right, the motion is to take up the bills, so you will have to put a motion on. You will have to put a motion on to exclude it because the motion now is to read all the bills. We will take that up at this time. All right, motion before the House is the Speaker's motion to suspend Rule 6, Section 7(b) in order that all the bills with the exception of 352 and 552 be read on Final Reading. Any discussion? Now there is an amendment to the Speaker's motion. Read the amendment.

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 by 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

May 29, 1981

LB 129, 129A, 322, 376, 466

CLERK: (Read the roll call vote as found on pages 2420 and 2421 of the Legislative Journal.) 30 ayes, 14 ayes on the motion to override 129A, Mr. President.

PRESIDENT: Motion carries and LB 129A has become law notwithstanding the action of the Governor. Now, some matters to be read in, Mr. Clerk.

CLERK: Yes, sir. Mr. President, before we proceed with the next motion, I must read the veto message on the bill.

PRESIDENT: All right, proceed.

CLERK: At the same time, Mr. President, I would advise you that your enrolling clerk has presented to the Governor for his approval the bills that were read today on Final Reading. (See page 2421 of the Journal.)

Mr. President, letter from the Governor addressed to the Clerk. (Read letter regarding LB 466 as found on page 2421 of the Legislative Journal.) (Read letter regarding LB 129 as found on page 2421 and 2422 of the Legislative Journal.)

Mr. President, I have an Attorney General's Opinion addressed to Senator Nichol and Clark and Marvel. (See pages 2422 through 2424 of the Legislative Journal regarding LB 376.)

Mr. President, veto message on LB 322 addressed to Dear Mr. President and Senators. (Read message from the Governor as found on page 2422 of the Legislative Journal.)

Mr. President, I have a motion from Senator Schmit that LB 322 become law notwithstanding the objections of the Governor.

PRESIDENT: Senator Schmit on the motion that LB 322 become law notwithstanding the action of the Governor. Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, LB 322 was a bill which was enacted several days ago when I was absent. It was passed into law. It was refused to be signed by the Governor. The bill is a very simple bill but it does have in it the objections. The Governor objected to the bill because there was an amendment placed on the bill which provided that the Director of Agriculture did not have to sign

May 29, 1981

LB 376

CLERK: Mr. President, I have one other item. Mr. President, I have a letter from the Governor addressed to the Clerk. (Read. See page 2427 of the Legislative Journal.) Mr. President, in conjunction with that, I have a motion on the desk from Senator Chambers. Senator Chambers would move that LB 376 be passed notwithstanding the action of the Governor.

PRESIDENT: Point of order, Senator DeCamp. State your point.

SENATOR DeCAMP: Mr. President, members of the Legislature, I object to the motion as being improper, out of order, irrelevant, immaterial and kind of obnoxious. There is no veto or any evidence of any veto. The Governor is in the custody of 376. Personal communications which apparently the Governor has between Mr. O'Donnell or A.J. McClanahan or Ernie Chambers or anybody are fine if that is what he gets his happiness from but it has nothing to do with the veto and the motion for any veto is completely out of order.

PRESIDENT: Senator Chambers, do you wish to speak to the point of order. I will allow you to since you made a motion that is in dispute. I will let you speak to it.

SENATOR CHAMBERS: Mr. Chairman, it doesn't matter at what point I make my motion but I anticipate the ruling of the Chair so why don't I get the ruling, then I will speak in response to the ruling of the Chair.

PRESIDENT: Okay. My ruling is going to be in favor of the objection by Senator DeCamp because obviously there has been no, in my estimation, there has been no veto message delivered to this Legislature. Therefore, you can't override that which didn't arrive.

SENATOR CHAMBERS: Mr. Chairman, and I believe this motion is debatable, I move to overrule the Chair.

PRESIDENT: All right, sir. You certainly may overrule the Chair. Motion by Senator Chambers...

SENATOR CHAMBERS: I'll attempt...

PRESIDENT: ...shall the Chair be overruled. Now.

SENATOR CHAMBERS: I want to speak to that motion.

PRESIDENT: Okay, you may now speak to that motion and that is debatable, yes, sir. Go ahead.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I am going to say now as I have said on this bill before, I don't care whether it is voted up or down but I do care about the legislative process and whether we are going to allow quasi executive actions or quasi legisla-

tive actions to be allowed to stand without the Legislature making some kind of clear determination. So what I feel an obligation to do is to lance this boil. The word veto is not contained in the Nebraska Constitution. In Article IV, Section 15 there is an itemization of certain actions that are available to the Governor when he is given a bill by the Legislature. And when he is dealing with a bill he may do only those things. No matter what disclaimer he offers or how he tries to characterize his action, if all of the facts that are necessary to produce a certain result are present, that result as a matter of fact, exists and since the Journal is the official record of what has been done by the Legislature, I want some things in the Journal. The first thing was my motion which has been overruled. I feel I must offer this motion ~~I~~ am to overrule the Chair and the record of the debate will indicate the rationale that I have. Section 15, the significant language indicates that after a bill has been presented to the Governor, if he approves, he shall sign it. That is the first thing he can do. If he does not approve, he shall return it with his objections to the Legislature. That is the second thing he can do. He can hold it for five days without his signature or if we adjourn before the five days are up, then five days after adjournment and in which case it becomes law. Those are the only three things the Constitution allows the Governor to do. Now as a matter of fact, a letter was addressed to the Clerk of the Legislature during the time we are in session and the Clerk is the agent of the Legislature and official correspondence, communications and other things are addressed to the Clerk, not in a personal capacity. It is impossible to write the Clerk of the Legislature a personal message from the executive branch, so a communication from the executive branch to the Clerk of the Legislature while we are in session is a communication to the Legislature. The Governor's letter, and I will call it a veto, although that word is not in the--I started to say the Bible, in the Constitution. Here is what the Governor said and I will paraphrase so I won't take a lot of time, that his objection is that the bill was not passed. There were not enough votes by members of the Legislature. That is a specific objection. In the next to the last paragraph he concludes by saying again, the bill, not having received twenty-five votes of senators, did not pass. So what facts do we have? A communication from the Governor under which he returned a bill with his objections without his signature. So regardless of how he characterizes his action, regardless of any disclaimer that this is just a clerical function, he vetoed that bill. Every factor necessary for a veto is present in this activity by the Governor. There is no recognition in the Constitution of a clerical return of a bill by the Governor with his objection. It was an

official executive action by the Governor taken pursuant to Article IV, Section 15 because that is the only authorization for returning a bill to this Legislature with his objections without his signature. Now I don't care what arguments people may have as to what the Constitution means when it says a majority of elected people have to do this or that or the other, I am talking about what the Governor did and I was talking to some of the lawyers earlier to try to make clear my point. If people enter into a contract they can characterize it any way they want to but what the law will look at is the facts that are actually involved in that contractual relationship and the law will impose the proper name or description on it. The Constitution tells us what has happened when a Governor returns a bill without his signature which is what this man has done. The reason I must do this is that I don't want to see form elevated over substance. We know the Governor is afraid to handle this bill. He is shilly-shallying. He is playing wimpy again but I, as a member of the Legislature, cannot let it go by. So I think the motion that I am making is in order but whether you vote it up or down doesn't make me any difference because the record that I would want to compile is complete. I have vindicated my responsibility as a member of this Legislature and one other thing I will say. The Legislature, by taking any action it wants to and characterizing it a certain way cannot impose a duty on anybody else other than what the Constitution imposes on that person. And as far as the form of this letter, that is not what determines whether a veto has occurred. It doesn't matter whether it says, Dear Clerk of the Legislature, Dear Clerk, Mr. President, Mr. Speaker, and names each one of us by name. That is not the significant thing. The important thing is that the bill was returned to the authorized agent of the Legislature who receives such communications. It stated the objections of the Governor, did not carry his signature so, as a matter of fact and law, he has vetoed that bill and I think the Chair ought to be overruled for declaring that the motion to override was out of order. Thank you.

PRESIDENT: The Chair recognizes Senator Hoagland.

SENATOR HOAGLAND: Mr. President and colleagues, I rise to present argument to support the ruling of the Chair in this particular case. You know, the Governor has created a very interesting and sticky legal question I think in returning this bill in the fashion that he has. If you read the letter carefully, which I have done several times the last few hours, I think it is clear that what he is doing is rendering a legal opinion to us just like the Attorney General renders legal opinions and just like a lot of other people render a legal opinion, either in writing or orally, and his letter is really

no more nor no less than like an Attorney General's opinion. He sends it to the Clerk of the Legislature like the Attorney General shows copies to and he cites all of the reasons that the Attorney General evidently has given him for why the document that he has before him is not a bill. Then he explicitly says that he is performing a clerical function by calling to our attention the fact that he does not have a bill before him and that his letter should not be construed as an exercise of his authority to veto messages, to veto bills. And then he goes on and the final sentence to the letter to explicitly state that he is not exercising his constitutional authority to veto LB 376 which, as he views it, is not even a bill in the first place. Now I think when we try to figure out what this document is the first thing we have to look to is what the intent of the person who wrote the document is and it is clear that he is simply sending a communication to the Clerk of the Legislature giving his legal opinion on what we did yesterday when we passed LB 376. Now when the Governor does veto bills and sends veto messages to us, he does it in a different form. If you will look on page 2267 of the Journal, you will see his veto message on LB 39 and he addresses veto messages as follows: "Mr. President, Mr. Speaker and members of the Legislature," and then, "Dear Mr. President and Senators:" This message is addressed to the Clerk and it says, "Dear Mr. O'Donnell." Now I think it is clear when you read this letter and reflect on it, all the Governor is doing is telling us that as far as he is concerned he does not have a bill before him and whether, in fact, he has a bill before him is obviously a question that is going to have to be answered by the Nebraska Supreme Court and that relates to the issue raising the Governor's letter as to whether the Lieutenant Governor could validly vote on the bill as he did yesterday. I personally think that he can. I think that the Lieutenant Governor's vote yesterday was in conformity with an explicit provision in the Nebraska Constitution. The Governor indicates that he disagrees. He is a lawyer. The Lieutenant Governor is another lawyer elected by the people of this state at large and he obviously feels he has a constitutional authority to cast that vote because he did and he sent the vote on and he sent the bill on to the Governor's office. Ultimately that question has got to be answered by the Nebraska Supreme Court and I think that for Senator Chambers to construe this as a veto is distorting not only what the Governor says in the letter but the provisions of the Nebraska Constitution. So I would strongly urge that you vote to sustain the ruling of the Chair in this matter. Thank you.

PRESIDENT: The Chair recognizes Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I totally support the interpretation of our Constitution made by Senator Chambers. I spent a little time looking at the

Constitution, looking at the Governor's message to us containing his objections, looking at our own rules and it seemed quite clear to me that very simply what has happened is that the Governor has sent us a document with his objections and with a bill and he may call this returning the bill because of a clerical oversight but in truth, in fact, what he has done is sent us what is known in the Constitution, although the word veto is not used, it is the equivalent to a veto and now it is up to us to make the decision whether or not to override that veto. Now there are people out in the lobby saying, let this go, let it go by the boards, let the courts interpret but one of the reasons that I think this is the most important principle for us to work out is because the legislative branch is one of the three co-equals of government and there have been wars waged over what the appropriate function of the legislative branch is and one of the functions of the legislative branch is to interpret our powers and our rules and our order of procedure. And we have as many prerogatives in our bailiwick as does the Nebraska Supreme Court over interpretations of the Constitution and as does the Governor over his own interpretation of the Constitution. But because the Governor casts LB 376 as a failed measure, it does not mean it is a failed measure in our eyes. It can well be a passed bill in our eyes and, in fact, you can look at the Journal. You will discover that we recorded the Journal and it has not yet been corrected as 376 having had a constitutional majority. It is declared passed. That is our legislative decision. The Governor can send us his message and it can say that simply that I am returning this measure to you because it did not pass and please do not construe my message as a veto but it is up to us, who is given the constitutional power to overrule objections by the Governor to a bill to make our own conclusion, our own independent conclusion, unfettered by nobody as to what this letter was. Now when I read the Constitution I discover a Governor may do three things with a passed bill and we said the bill passed. He may sign the bill, he may not sign the bill, whereupon it becomes law after a passage of time and in the alternative he may return the bill with his objections in writing and they shall be read in the Journal by the Clerk and we may then take up those objections, and if by three-fifths vote we overrule the Governor, override the Governor, then that bill becomes law notwithstanding the actions of the Governor. The Constitution says absolutely nothing about returning a measure that we have said was a passed measure for any action on our part or any inaction on our part and accordingly it seems only fit and proper that we overrule the Chair on this point and we impress upon the Governor and upon the court our interpretation of the Constitution. To do otherwise, frankly, is not in keeping with our being a co-equal, one of three

equal powers of government.

PRESIDENT: The Chair recognizes Senator Barrett.

SENATOR BARRETT: Thank you, Mr. President and members, there is probably no one in this body who has fought harder against this particular bill than myself. A number of us have anguished over this particular bill. There have been pressures exerted which in some cases were almost unbelievable on both sides. In my brief experience in this body I have not yet seen pressures such as those that were exerted on this particular issue. I rise in support of the introducer of the bill in his objection to the motion by Senator Chambers. I would like at this point to suggest to the body that we sustain the ruling by the Chair. The bill, at least in my humble opinion and the opinion of others, did not pass because it lacked the constitutional majority. If you will bear with me I would like to reread just two paragraphs that the Clerk read from the letter which was returned by Governor Thone. "The Legislature's Journal clearly indicates that LB 376 received only twenty-four votes from elected members of the Legislature. Twenty-five votes are needed for a Constitutional majority. Therefore, this bill did not meet the Constitutional requirement and was not passed by the Legislature. This return of LB 376 to the Clerk of the Legislature is a clerical function and is not and should not be construed as an exercise of the Governor's authority under Article IV, Section 15 of the Constitution of the State of Nebraska. In other words, I am not by this action exercising my Constitutional authority to veto this purported piece of legislation which was never legally passed by the Legislature." I don't believe that this particular action is within the competence of the Legislature, frankly. Again, the bill did not pass. I think the Legislature is not the appropriate body to determine whether or not this is a veto. I think the courts are the appropriate place at this particular juncture to make that very significant and most important determination. I think both sides in this issue at this particular time have generally agreed this is as far as it should go. Let's let the courts decide. So I would again agree with Senator DeCamp and I would ask the body to sustain the ruling by the Chair. Thank you, Mr. President.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, the Governor is in possession of the bill, one way or another. Like it or not, weak or strong, courageous or fearful of that situation, he has got it. Now what he chooses to do with it is up to him the next three or four days. The fact that he

chooses to send missives or letters discussing his various problems, strengths or weaknesses does not alter the situation and as far as the Governor of this state is concerned, he doesn't even know that Roland Luedtke voted for that bill because the official record that he has to deal with says twenty-five people passed a bill according to law and following the Constitution. For him, therefore, to come up with all kinds of other theories or rulings to duck the issue, to avoid making a decision, to attempt to cast the problem elsewhere does not alter the factual legal situation, even though he or some of his runners may dump the bill on a kitchen counter somewhere or restaurant or cafe or the floor of this Legislature or anywhere else, he signed for that according to the laws of the Constitution and it is his baby and in five days hence he has not vetoed it, it becomes law. If he does sign it, it would certainly be an act of courage, which I doubt will occur. But in the meantime for us to sit here and attempt to override vetoes that do not exist on bills that have never been delivered to the Legislature by any recognized legal form, is somewhat foolish. I urge you to uphold the Chair and get on with the remaining business and adjourn this day as quickly as possible. I am satisfied from the responsible case law on this issue that the Lieutenant Governor of this state, be he Roland Luedtke, Bill Nichol or anybody else, under the identical situation, has the authority to cast the deciding vote and that everything he did was proper and that the Supreme Court, should it be asked to address this issue, can rule no other way once they look at the entire picture and all the case law on the subject. So, again, I urge you to reject any attempt to even recognize that there is anything to talk about on the subject of the veto of LB 376. I am distressed as I suggested, that letters expressing the weakness of one or another individual have to create all this controversy but that is no reason for us to go crazy. We have our constitutional duty. We have done it. I would hope he would do his.

PRESIDENT: The Chair recognizes Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I would like to also urge that the Speaker not be overruled. I think it would be a mistake to characterize the letter that the Clerk of the Legislature has received as a veto. Many of the points that I would have talked about have already been discussed but let me just suggest to you one more reason why we should not. The Constitution and the statutes of this state have over time by the institutions of this state, whether they are executive branch institutions or the Legislature or the Judiciary, have been interpreted in according with certain customs and usages and those patterns of custom and usage are important and

will be important to the courts in interpreting whether this or that is, in fact, this or that. What is our custom and usage? When we have sent a bill to the Governor in the past the custom and usage if he wished to veto it was to send back to us a letter, not a letter addressed to the Clerk of the Legislature such as this one was today, but a letter addressed to Mr. President and Senators and the letter did not say or talk about whether a bill was passed or not or about specific problems. It always has specific kind of language. It always said returned without my signature and with my objections. If we now depart from that basic format and start accepting back from the Governor letters that say this or that and that are addressed to the Clerk or to the bill drafter or to one of the individual senators, then we are departing from the usage and custom and I think that that is a mistake. I think the courts will look at that in determining whether there has, in fact, been a veto too but I think that we should stay to the beaten path and call a veto a veto and not call something a veto that even the writer of the communication would not have us call a veto. That is how I feel on the substance of the matter but to me the whole situation, this whole constitutional crisis of sorts has really been caused by what can be characterized as none other than a wishy-washy response by the executive officer of this state and it would be a shame from my point of view to dignify his lack of resolve by calling it a veto. Thank you.

PRESIDENT: The Chair recognizes Senator Wesely.

SENATOR WESELY: Question.

PRESIDENT: The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed nay. The motion is, shall debate cease. Technically, again, we are still under Call. I hate to tell you that but we really are. Record the vote.

CLERK: 25 ayes, 15 nays to cease debate, Mr. President.

PRESIDENT: Motion carries. Debate ceases. Senator Chambers, you may close on your motion.

SENATOR CHAMBERS: Yes, thank you, Mr. Chairman. First of all you ought to remember the story of the Emperor's new clothes. These people told him, they had given him this suit, invisible clothes, and he went out and everybody, because they were dealing with the Emperor, turned their eyes away or looked down or looked at him with a blank look and pretended that he was not naked but a child in

the child's honest way said, "The Emperor has no clothes," and exposed verbally what these shysters had exposed literally. That is what you are doing now. You are playing the Emperor's new clothes game. You are saying that because the Governor is a wimp, a wishy-washy, a cowardly, shilly-shallying dodger of the issues, the Legislature is going to duplicate that conduct and do the same thing but what would be the effect of ignoring this communication which I feel is a veto? It means that based on the facts of the situation and the law, the bill has been vetoed. If these bankers out here are foolish enough to play a game among themselves, let them do so. Let them start buying up other banks and taking a lot of stupid acts, relying on whether or not this is a bill or not. Then when they find out that it was vetoed, then anything that they had done based on the authorization of this will have to be undone so if they want to do that, fine. If the Governor wants to try to hide under stones, fine, but I am not going to do it. There are a couple of things I want to be sure and touch on. The issue that I am raising is not whether the Lieutenant Governor was a member of the Legislature and thereby his vote constituted a valid twenty-fifth vote. I am saying that the Governor offered a veto. He could give a thousand reasons for vetoing a bill and every one of them could be wrong. The Constitution does not require the Governor to be intelligent. It does not require him to be correct. It does not require him to be literate or anything else. All it says is he has to return the bill with his objections, without his signature and that is what even Senator Beutler would have to admit, but I am not going to run him through those hoops of answering these questions because he knows. Now, I have to give an example from the law for the lawyers. If you are brought before a court and you want to challenge the jurisdiction of the court and you feel there is no jurisdiction you can enter what they call a special appearance. That means your only reason for coming before the court is not to give them jurisdiction over you which you say the court doesn't have, but to show why the court doesn't have jurisdiction. Now you can characterize your being there as a special appearance but if you begin to go into the merits of the issue then despite the fact that you said this is a special appearance, it becomes what they call general, meaning that you are there to litigate the issue and by your action you have given the court jurisdiction. So, despite how you characterize what the Governor has done or how he characterizes it, the facts will speak for themselves and determine what we have before us and it is a veto no matter what you call it. I don't think the Legislature can afford to refuse to act in this case. On page 2367 of the Journal we have a record of the vote and the Lieutenant Governor is mentioned as one of the voters. That is the official record of the Legislature. On page 2375 the Journal points out that the bill was presented to the Governor.

Everything the Legislature was supposed to do according to form had been done. The Legislature had nothing further to do with the bill unless it would offer a motion and pass it to ask the Governor to return the bill and then the Governor is not bound to return it. When the Legislature passes the bill it is through. Its part of the process is over. The legislating is through and now it is in the hands of the executive and the Constitution says what the executive can do and he chose one of those things to do and he has done it and despite the pressure in the lobby, all the lobbyists, by the way, do you know how you can tell the bankers from the lobbyists? I discovered this. Their clothes match pretty good. They fit them pretty well. They are not quite as wrinkled and some lobbyists might say a well dressed man would have to make sure his socks match his clothes but for me if my socks match each other, that is sufficient, so I did learn something from the lobbying on this particular bill. But I am not going to take any more of your time because I have put into the record the things that I think ought to be there. But consider this one point. If you decide that you are going to ignore what the Governor has done and pretend for whatever reason that it did not happen, the facts will not be altered and I think you will make a grievous mistake unless you want the bill to be vetoed without trying to override it and this last statement. Even if you vote to overrule the Chair, I have no interest in the bill at all. My interest is in the integrity of the legislative process and the proper relationship between the executive and the legislative branches I have done. Thank you very much and I am adjourning myself sine die now because I have to be at the airport.

PRESIDENT: Okay, the question before the House is shall the Chair be overruled but I am going to have the Clerk review what led up to this motion. Some of you may have...we have gone so long. It has been such a long hard day that, why don't you review how we got where we are.

CLERK: Mr. President, there were a series of events. The... I received a letter from the Governor. Pursuant to that letter Senator Chambers offered a motion that LB 376 become law notwithstanding the action of the Governor. Senator DeCamp raised a point of order as to the propriety of that motion claiming that the motion was out of order because the bill had not been returned to us and had not been vetoed. The Chair sustained Senator DeCamp's point. Senator Chambers then moved to overrule the ruling of the Chair, Mr. President, and that is presently the question before us.

PRESIDENT: That is the question before the House. All in favor of, shall the Chair be overruled is the question. All

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in favor vote aye. If you want to overrule the Chair vote aye. If you want to uphold the Chair vote nay. Record the vote.

CLERK: 6 ayes, 28 nays to overrule the Chair, Mr. President.

PRESIDENT: The Chair is sustained. Now any further motions?

CLERK: Mr. President, the next motion I have is offered by Senator Vard Johnson. Senator Johnson would move to override the Governor's line item veto of LB 506A.

PRESIDENT: 506A, Senator Johnson?

SENATOR V. JOHNSON: Yes. Mr. Speaker and members of the body, earlier this week we passed LB 506 and LB 506A, the accompanying appropriation bill. As you may recall, this increases the tax on a package of cigarettes by one cent. Under 506 the purpose of the tax increase is to be used for cancer research. The fiscal note indicated that the tax itself would generate revenues of about \$1.7 million. The Governor has decided to line item veto the appropriations bill so that only \$400,000 will go into contract cancer research, with \$800,000 of the penny a pack tax increase just going into the General Fund. Now, when I voted for 506 and 506A, I voted very simply to put a penny a pack tax on cigarettes and to specifically earmark it for cancer research. I did not vote for 506 and 506A to increase the tax a penny a pack so that half of the tax could then be used to go to the General Fund with the remaining half of the tax going into Eppley Institute and to a limited amount of cancer research. If the Governor's line item veto of the \$800,000...that's what it amounts to, is overridden, it doesn't mean any increase in taxes. Why? Because we already increased the tax. We increased the tax on a pack of cigarettes by a penny a pack. Very simply, it just means that our allocation of that tax increase to cancer research will continue to be upheld. I think it is important that we fully fund the cancer research operations that we have established by LB 506 and not fund in part with that penny tax increase cancer research and also the General Fund. It is for that reason I would ask that this body do override the veto of the Governor.

PRESIDENT: Senator Warner. The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President, I would rise to oppose

SENATOR CLARK: The motion lost. Rule #9. The Clerk would like to read a couple of things in first, Senator Wesely.

CLERK: Mr. President, I have two Attorney General's opinions, one addressed to Senator DeCamp regarding LB 376 of last session and one to Senator Wesely regarding LB 154. (See pages 115-118 of the Legislative Journal.)

Mr. President, Senator Vickers would like to print amendments to LB 32 in the Legislative Journal. (See page 118.)

Mr. President, the Speaker gives notice of Special Order Item for next week. Mr. President, that is all that I have right now.

SENATOR CLARK: Senator Wesely, do you want to take up #9?

SENATOR WESELY: Mr. President, members of the Legislature, rule change #9 would simply put in the rules that a committee may adopt Model Committee Rules which are an appendix which has already been developed about a year ago by the Legislature. This doesn't require anything. The committees have accepted them. What they do, if they don't want any rules they don't have to. If they want rules they can choose any they want but it just says that if they want to have rules they could choose those Model Committee Rules. It is just a purely flexible option that they have just to point out that they do exist and they are an option for the committee.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, I would strongly support this rule and I would suggest that if we had tried this exactly as it is written way last year this would be in full force and effect now because this says, "Hey, look, committee chairmen, committee members, you can if you want. Here's the layout of the rules, a system for you. Look it over. If you want to try it, try it." It does not force you. It gives you flexibility and I think that is what we want. Before you are forced to wear a new suit, let you try it on and see how it fits first and this gives you that chance as a committee and a committee chairman to try this set of committee procedures that I think will enhance the session and enhance the committee. So I urge you to support it with the understanding, of course, it doesn't force anybody to do anything but it sure gives you the flexibility to.

SENATOR CLARK: The question before the House is the adoption of rule #9. Senator Wesely, do you have anything else? All

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PRESIDENT: A 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 Administrative Rules and Regulations whose chairman is Senator Vard Johnson reports LB 649 to General File.

Mr. President, I have a gubernatorial appointment letters appointing Mr. Don Stenberg to the Department of Administrative Services; Colonel Elmer Kohmetscher as Superintendent of the Nebraska State Patrol and Mickey Skinner to the Games and Parks Commission. Those will be referred to the Reference Committee.

Mr. President, I have a communication from the Secretary of State regarding a return of LB 376 to the Legislature. I also have an accompanying Attorney General's opinion addressed to Mr. Beerman regarding that matter. It will also be inserted in the Journal.

Mr. President, LR 199, 206 and 207 are ready for your signature. (See pages 373-375 of the Legislative Journal.)

PRESIDENT: While the Legislature is in session and capable of doing business I propose to sign and I do sign LR 199, LR 206 and LR 207. We're ready then for agenda item #4, General File, the priority bill, LB 375. Mr. Clerk, if you will bring us up to where we are.