

January 20, 1981

LB 389-433

SPEAKER MARVEL: Senator Higgins.

SENATOR HIGGINS: Mr. Chairman and Senator Chambers, I merely want to state the fact that your very presence here and the fact that we are listening to you is a contradiction of your remarks that you do not have freedom. Thank you, Mr. President.

SPEAKER MARVEL: Senator Burrows.

SENATOR BURROWS: Mr. Speaker, members of the body, I would like to request permission we lay over the resolution until the hostages are in the air.

SPEAKER MARVEL: Any objection? If not, so ordered. We will go to item #6 now, introduction of bills.

CLERK: Mr. President, new bills. (Read by title LB 389-432. See pages 271-280 of the Legislative Journal.)

SENATOR CLARK PRESIDING

SENATOR CLARK: Could I have your attention just a moment, please? The AP has reported that the American hostages will fly out of Iran in the next thirty minutes. (applause).

CLERK: (Read by title LB 433. See pages 280-281.)

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

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I wanted to say something but I don't want to say it if we have urgent business to do. This will take about two or three minutes.

SENATOR CLARK: Continue, we don't have any business right now.

SENATOR NICHOL: Okay, Senator Marsh has a bill in having to do with mammals and I wanted to tell you the story of the three mammals if I may. May I do that, sir?

SENATOR CLARK: Go right ahead if it is funny.

SENATOR NICHOL: Well, I don't know about that but once upon a time there were three mammals who lived happily in Mammalary Land. There was a papa mammal that we called Pappy and mama mammal that we called Mama and baby mammal we called Babble and the reason we called baby mammal Babble was because he talked a lot and asked embarrassing questions.

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LB 23, 32, 87, 90, 99,
111, 128, 166, 175, 180,
215, 283, 347, 413, 437,
465, 483

Senator Hefner reports 483 to General File.

Your committee on Ag whose Chairman is Senator Schmit reports 283 be advanced to General File with amendments.

Your committee on Judiciary whose Chairman is Senator Nichol reports 413 to General File with amendments; 32 General File with amendments; 215 General File with amendments; 180 General File; 347 General File with amendments; 111 General File with amendment; 465 General File; 99 General File with amendments; 87 General File with amendments; 23 Indefinitely postponed; 90 Indefinitely postponed; 166 Indefinitely postponed; 175 Indefinitely postponed. (Signed) Senator Nichol, Chair.

Your committee on Urban Affairs whose Chairman is Senator Landis reports 437 to General File with amendments. (Signed) Senator Landis.

Mr. President, LB 128 was introduced by Senator Myron Rumery. (Read title.) The bill was read on January 13 and referred to Retirement for public hearing. It was advanced to General File. I have no amendments on the bill, Mr. President.

SPEAKER MARVEL: Senator Rumery, do you wish to explain the bill?

SENATOR RUMERY: Mr. President, members of the Legislature, if I could have your attention for a few minutes, I would appreciate it. We introduced this bill for these reasons, that should a member of the school employee's retirement system die before retirement, LB 128 would provide an option for the payment of benefits to the spouse of the member, if the spouse is the sole surviving beneficiary. Presently the law provides that if a teacher has twenty years service and is at least 55 years of age or thirty years of service regardless of age and dies before retirement, a monthly annuity for life would be paid the spouse if the spouse is the sole surviving beneficiary in an amount equal to the joint and survivor benefit that would have been paid if the deceased member had retired on the date of death. The joint and survivor benefit is a greatly reduced benefit. The amount of the reduction is determined by the age of the deceased member and the age of the spouse. There are times when the surviving spouse would prefer to have a lump sum benefit rather than a meager monthly payment for life. Often a surviving spouse of a deceased member needs funds for retraining or to enter another job market or to invest in a business that may have some opportunity. LB 128 would give a spouse who is the sole surviving beneficiary

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LB 359, 413

Senator Landis.

SENATOR LANDIS: I certainly would, Senator Nichol. I would just ask for a moment to confer with the introducers of the amendments, if that is the case to see if it is acceptable to them.

SPEAKER MARVEL: Do you want to get together the two of you? Okay, the Legislature will be at Ease for about five minutes.

EASE

SPEAKER MARVEL: Temporarily at Ease. I will alert you to some discussion this afternoon in regard to specific definitions which will clarify for instance the difference between special order and pass over bills, for instance. We are getting into a different dimension. I think that we have to clarify this for you hopefully sometime this afternoon. Senator Landis.

SENATOR LANDIS: (Microphone not activated)..conferring with the introducers of the amendments, can I offer this as a way to proceed? Let's pass over the bill at the present time. The Urban Affairs Committee will volunteer to hold a hearing giving appropriate notice to all parties, make a recommendation back to the body. It would be in the event we agree with the introducers substitute committee amendments and we will bring it back to the body following a public hearing on the General File stage. That way the bill does not need to be rereferred to our committee but there will be a public hearing on this language that is being offered now.

SPEAKER MARVEL: The motion is to pass over the bill which goes through the proper receptacle, and....

SENATOR LANDIS: Could I just say until such time as the Urban Affairs reports back to the body following the public hearing on the amendments?

SPEAKER MARVEL: Okay, is there any objection? Otherwise we have a new item set up which we have used before and which we hopefully will talk about this afternoon. The motion is to pass over the bill. Any objection? Hearing none, so ordered. LB 413.

CLERK: Mr. President, LB 413 offered by Senator Chambers. (Read title). The bill was read for the first time on January 20 last year, referred to the Judiciary Committee. The

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bill was advanced to General File. There are committee amendments pending, Mr. President.

SPEAKER MARVEL: The Chair recognizes Senator Nichol.

SENATOR NICHOL: Mr. Speaker and members of the Legislature, there is only one committee amendment to LB 413 which provides several foundational requirements which the prosecution would have to establish prior to the introduction of radar evidence in a criminal prosecution. One of those foundational requirements in the original bill was that the operator of a speeding vehicle was afforded the opportunity to observe the recorded speed on the radar device. This was questioned at a public hearing whether compliance with this provision would be practical in many circumstances. After discussion, the committee decided to strike this particular provision of the bill. I move for the adoption of the committee amendment.

SPEAKER MARVEL: The motion is the adoption of the committee amendments. Any further discussion? Okay, the motion before the House is the adoption of the committee amendments to LB 413. All those in favor of that motion vote aye, opposed vote no. Have you all voted? We are voting on the committee amendment to LB 413. Record the vote.

CLERK: 26 ayes, 0 nays on adoption of the committee amendments.

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

SENATOR CHAMBERS: Yes. Mr. Chairman and members of the Legislature, I want you to be as clear as possible on what this bill does. It does not take away the use of radar in detecting speed. It does not take away the right of the State Patrol, a county sheriff, a police officer at any level who may use radar, it doesn't take away their right to make use of it as evidence. But what it does do is put into statutory form in Nebraska certain requirements that courts and other states have placed in the law as a prerequisite to the use of radar evidence to determine speed. I will go through these items and any questions that you have I will be glad to answer them. But one thing I should point out to you. I have on occasion been stopped by the State Patrol under the allegation by them that I was going faster than 55 miles an hour. When we would go to court and judges would listen to the evidence, they would disagree. Now there was one time that they snuck up on me by means of air

and they used a stop watch and I fought that all the way to the State Supreme Court but the Supreme Court decided that I had not done what I would need to do to be found not guilty. So on a stop watch clock I was convicted, so I do have a criminal record because a speeding prosecution is considered a crime but that is the only one I have on my record. Never have I been convicted under a ticket that I received through radar. I don't get as many tickets as people think that I get, but because I fight them, every time I reach a new stage in the court proceedings an article might appear and people think that is an additional ticket. So I am very familiar with not only the way radar operates but the inability in many instances of the operator of the radar to establish to the satisfaction of the court that he was properly trained, that the device had been tested, that it was in proper working order, that it was used under circumstances so that distortion would not interfere with the reading. Now I will give...oh, and here is what I was going to tell you, at the last case that I won down in Plattsburgh, the State Patrol was there and they have instituted a training program for their officers. Much of what I brought out in my defense has been incorporated into their training program. Not only are the state troopers being given training in the use of radar but the county attorneys are undergoing a training program also in the use of radar. Now I am going to give you what the bills says and what it does. On page 2 it tells you that the radar evidence can be used to corroborate an officer's opinion that an individual is speeding. This means that the officer must see a vehicle and determine that it probably is exceeding the speed limit and then clock it. The reason this is necessary is because of the way radar devices are built. They have two windows, one window contains the speed of the motor vehicle driven by the trooper. The other speed is the target vehicle. Now the way radar arrives at the speed of the target vehicle is by a computer process, a calculation, not by actually measuring directly the speed of the oncoming car. So the speed of the officer's car is determined by the radar device. The speed of the oncoming vehicle is added to that of the officer's vehicle. It comes up with a total. The computer subtracts the speed of the officer's car from the total speed and what is left in the target window you hope is the speed of the vehicle that the officer is clocking. If there is more than one vehicle in the beam of the radar, the officer cannot determine which one is being clocked. Things that influence the reading of a radar device are the size of the target, the shape of it, the material from which it is constructed and its distance. So if a small car is right in front of a large truck, the radar will read the truck because what it does is send out

a beam of energy. It strikes the target and reflects back and the receiver picks it up and determines what change occurred in the beam going out and the one coming back. And it determines the speed by that means. Since the mass of the truck is greater than that of the car, the car might be going faster but the truck reflects more of the energy so the truck speed is what the radar will pick up. These are some of the things that would be given to an officer in his training. These are questions that are put to him when he is testifying in court. If he does not know these things, he cannot obtain a conviction. Another thing that is necessary to be known is what the range of the unit is so he can determine when a target is within distance that will allow the radar to read it correctly. So now I can proceed. The officer makes the visual determination that a car is speeding, then he puts the radar on it and if the radar confirms his suspicions, that can be offered in evidence if these other factors are met. I will tell you why the visual observation is necessary. You can set a certain speed or numbers on this device, any number you want. If you want to start ticketing people when they exceed 69 miles an hour, you set the device for 68. As soon as anything affects that radar in such a way that a number 69 would come up, a buzzer goes off. Well, many times the officers are not monitoring the traffic and when the buzzer goes off, they look up and the first car they see is the one that they ticket. Tests have been undertaken to show that radars can give a reading where no target is present... where no target is present. These are called ghost readings. They can be caused by high tension wires, by atmospheric conditions, by roadside signs which will cause the beam to bounce and maybe hit something other than the target that the officer is looking at. So the radar is reading something but it may not be the car. So the visual observation, then the officer aims at the car that he is trying to check and if these other things are met that can be offered. Here are the things that must be met. In line 22 we begin talking about the working order of the device, and I don't think anybody would disagree with the idea that they should have to establish that the device is properly working. The way that these things are determined is through testing, but we will get to that. The area that the officer makes his clockings should be where there is not a possibility of distortion, in the presence of high tension wires, radio microwave transmitters, these large lights on the highway, other things that can cause electronic interference. If you are in a site like that, the officer should not make a reading. So he would have to establish in court that he was making the reading in an area where outside interference cannot be given as the cause of the reading that he obtained. When you go to

page 3, we talk about the test for operating the device. The officers will be trained how to make these tests and they are very simple. You get a tuning fork and it is calibrated, that just means that it is set to transmit a wave based on the vibration. It is not the sound, but it is the vibration, the wave that is set up that disturbs the atmosphere and when you put the radar device on it, the device measures the movement of the fork, not the sound. If the fork is properly vibrating, then the reading on the radar will be a miles per hour. If the fork is calibrated to read 45 miles per hour and you strike the fork and put it in front of the antenna and the radar reads 45 miles per hour in the appropriate window, then you have it. I won't mention the double forks because that could be confusing but the idea I want you to understand is that the tuning fork method is one that is traditionally used, it is accepted and courts in most instances require it. So that is something that can easily be complied with. The highway traffic commission, or highway commission in the state, whatever agency it is, puts out a little bulletin and they periodically advise all law enforcement officers to bring in their tuning forks to them to be tested for proper calibration, so that is not difficult to be dealt with. The second provision under subdivision (d) at line 4 talks about before and after testing. What the courts require is that shortly before a reading is taken the device must be tested to be sure that it is in working order. After the reading is taken, then there must be another test to be certain...if it is operating properly before the reading, operating properly after the reading, the conclusion that it was operating properly when the reading was taken. So the before and after testing is required.

SPEAKER MARVEL: You have one minute.

SENATOR CHAMBERS: Now I have mentioned the visual observation. That is about all that there is to the bill. And remember, to put it in a nutshell it would relate to training for the officer to make sure that he understands the device, testing of the device in a proper fashion that is acceptable by the court, and then when all of these things are met with, the evidence is offered and the judge makes the determination based on all of the evidence. But everything in this bill can be found in laws of other states or court decisions. And anybody who is interested in seeing the opinions, I can give them to you but it would have been too voluminous to copy for every member and hand it out. So what I am asking is that you advance this bill.

SPEAKER MARVEL: The motion....is there any further discussion?

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Senator Vickers. We are speaking on the motion to advance the bill.

SENATOR VICKERS: Mr. President and members, I wonder if Senator Chambers would respond to a question, please.

SENATOR CHAMBERS: Yes.

SENATOR VICKERS: Senator Chambers, because of your legal knowledge and the fact that I have lack of legal knowledge, could you explain to me the difference between prima facie evidence and competent evidence, which is the change that you are making as I understand it on radar?

SENATOR CHAMBERS: Let me instead of trying to give a definition, try to tell how it operates. Under the present law there are no standards related to testing or anything else, whether the unit is good, whether the officer is trained, or whatever. So all that would have to be done is to indicate that you have a radio microwave device mechanically designed to measure speed. The officer used such a device and measured the speed. The speed measured was in excess of the speed limit so that becomes the evidence. And if you don't overcome all of that, you have lost. The way the bill would do now is to set certain foundational requirements saying that this is not going to be at the level of almost an irrebuttable presumption....let me change that, an accusation that is very difficult to be overcome. Before you can really have this kind of evidence offered to be used against you, the officer is going to have to establish the things that I have mentioned. It will take, in other words, more than merely saying that I had a device, I got this reading, this is what the reading was. Before that can be done, you have got to establish these other matters.

SENATOR VICKERS: Would it be fair to say then, Senator Chambers, that if your bill passes, then it was only competent evidence even though the testing had been done and so forth with the radar equipment, that still there had to be other evidence other than the evidence of the radar equipment that an individual was speeding? Is that true?

SENATOR CHAMBERS: Again...I am not sure if I understand your question, what you are asking me so let me tell you what would happen.

SENATOR VICKERS: Well, the radar itself....

SENATOR CHAMBERS: If the officer can show he was properly trained, show that the equipment was in proper working order

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and that he did all the things that he was supposed to do and will then give the reading and it is in excess of the speed limit, there will be a conviction on the basis of that, if all of the things in this bill are complied with, unless there is something like a mistake in the person accused or the wrong driver or something like that.

SENATOR VICKERS: Well, let me ask you this then. If all the things were complied with that are in this bill, what difference would it make whether it was competent evidence or prima facie evidence?

SENATOR CHAMBERS: It's a technical....(interruption).

SENATOR VICKERS: If all the things were complied with, either way would result in a conviction. Isn't that correct?

SENATOR CHAMBERS: But here is the point, Senator Vickers, this bill would place an affirmative requirement on the state to go forth with all of these items itself. The state in presenting its case would have to establish that all of these things were complied with before the evidence could even be introduced.

SENATOR VICKERS: Okay.

SENATOR CHAMBERS: That is not the case now.

SENATOR VICKERS: Okay, thank you, Senator Chambers. I wonder if Senator Beutler would respond to a question perhaps. I hope he has been listening to this conversation. I would like to get a second legal opinion from our colleagues here and I was going to the same brain trust row that Senator Chambers referred to yesterday. I don't see any other legal counsels in here. I just question the change in prima facie evidence to competent evidence. Again, I am not questioning Senator Chambers' desire to make certain that people have an opportunity to rebut the evidence presented before them, but it would seem to me that that might be quite a change that we are making in the statutes and would urge the body's careful consideration before that change is made.

SPEAKER MARVEL: Before we proceed, underneath the north balcony we welcome Dave and Donalee Lamb and their son, Jason, from Anselmo, as I understand, the son and daughter-in-law of Senator Lamb. Right? There is a future legislator. Okay, Senator Haberman, do you wish to be recognized?

SENATOR HABERMAN: Yes. Mr. President and members of the Legislature, question of Senator Chambers, please. At the

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present time, is there a statute that prohibits a person from observing what the radar machine says that they were going...how fast they were going?

SENATOR CHAMBERS: No, there is nothing which prohibits it, but a lot of times the officers don't allow it.

SENATOR HABERMAN: That is why I asked the question. The last time I met one of these fellows, he wouldn't allow it and...but we rejected that amendment, is that correct?

SENATOR CHAMBERS: Senator Haberman, that was accepted striking that so you still don't....see that is one of the main things that Colonel Kohmetscher objected to, so the committee struck that so that the operator doesn't have to show you that. I think the operator should be required to show it to you because it is evidence that will be used against you. The only opportunity you would have to observe it is on the spot. If you are denied that, then you don't really know whether the device was even turned on or not.

SENATOR HABERMAN: Thank you, Senator Chambers. Thank you, Mr. President.

SPEAKER MARVEL: Okay, the motion before the House is to advance LB 413 to E & R for Review. All those in favor of advancing the bill vote aye, opposed vote no. Have you all voted? Have you all voted? Senator Chambers.

SENATOR CHAMBERS: I don't know how many are here but I think that is part of the problem, so could I ask for a Call of the House and see how many I might...can scare up?

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

CLERK: 23 ayes, 2 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please take your seats. Unauthorized personnel please leave the floor. Record your presence. Senator Burrows, will you...no he's...all right, let's see who have we got? Senator Wiitala, will you please record your presence? Senator DeCamp, will you record your presence? Senator Newell, will you please record your presence? Senator Howard Peterson. Senator Cullan. We are looking for Senator DeCamp and Senator Kremer. Senator Howard Peterson. Senator Chambers, do you wish to accept call in votes?

SENATOR CHAMBERS: If there are any.

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LB 359, 413, 643,
690, 691, 692

SPEAKER MARVEL: Yes, there are some.

CLERK: Senator Clark voting yes.

SPEAKER MARVEL: Okay, six excused. Senator Fenger, will you please record your presence?

CLERK: Senator Vickers voting yes. Senator Beyer voting no.

SPEAKER MARVEL: Roll call vote has been requested. Proceed, Mr. Clerk.

CLERK: (Read the roll call vote as found on page 145 of the Legislative Journal). 25 ayes, 13 nays, on the motion to advance the bill, Mr. President.

SPEAKER MARVEL: The bill advances. Do you have some items to read in?

CLERK: Yes, sir, I do. Mr. President, Senator Newell would like to print amendments to LB 359 in the Legislative Journal. (See pages 146 through 150 of the Journal).

Mr. President, new bills. LB 690 offered by Senator Hefner. (Read title). LB 691 offered by Senator DeCamp. (Read title). LB 692 offered by Senator Rumery. (Read title). (See page 150 of the Legislative Journal).

Mr. President, Senator Marsh would ask unanimous consent to be excused Friday and Monday, January 8.

Mr. President, Senator Kilgarin asks unanimous consent to add her name to LB 643 as co-introducer.

SPEAKER MARVEL: No objection, so ordered. Senator Kahle, will you recess us until 1:30.

SENATOR KAHLE: Mr. Speaker, with pleasure I move we recess until 1:30 this afternoon.

SPEAKER MARVEL: All in favor of that motion say aye. Opposed no. The motion is carried. We are recessed until 1:30.

Edited by

L. M. Benischek
L. M. Benischek

January 18, 1982

LB 32, 198, 215, 264, 274, 274A,
347, 413, 431, 465, 664, 848-851

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by Chaplain.

CHAPLAIN PALMER: Prayer offered.

PRESIDENT: Roll call. Senator Fenger, do you want to hit the button so we can get started? Thank you. Now we will start. Record the presence.

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 198 and recommend that same be placed on Select File with amendments; LB 274 Select File with amendments; LB 274A Select File with amendments; LB 413 Select File; LB 32 Select File with amendments; LB 215 Select File with amendments; LB 347 Select File with amendments; LB 465 Select File with amendments; LB 264 Select File with amendments; LB 431 Select File with amendments. Those are all signed by Senator Kilgarin, Chair. (See pages 311 through 316 of the Legislative Journal).

Mr. President, I have a Reference Report referring LB 839 through 847. (See page 316 of the Journal).

Mr. President, communication from the Governor addressed to the Clerk. The Governor has signed LB 664.

PRESIDENT: Ready then for agenda item #4, introduction of new bills, Mr. Clerk. Are there any bills to introduce?

CLERK: Yes, sir, there are.

PRESIDENT: Proceed.

CLERK: Mr. President, new bills. LB 848 offered by the Public Works Committee and signed by its members. (Read title). LB 849 offered by the Public Works Committee and signed by its members. (Read title). LB 850 by the Public Works Committee and signed by its members. (Read title). LB 851 offered by the Public Works Committee and

SPEAKER MARVEL: LB 413 is the next one.

CLERK: Mr. President, there are no E & R amendments to LB 413 but Senator Hoagland has an amendment to the bill. Senator Hoagland would move to amend by striking lines 10-15 on page 3.

SPEAKER MARVEL: The Chair recognizes Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker and colleagues, I would recommend that you turn to the bill and you can see what I am trying to do with this amendment. Now Senator Chambers has spent a great deal more time looking into radar issues than I have and is certainly a lot better informed and let me indicate to Senator Chambers what my concern is about the particular language that he has in the bill right here because he may have a good explanation for it. My concern is the language in the bill which I am asking to be stricken requires a law enforcement officer to first make an independent judgment that a car is speeding before he can turn the radar on and use it. Now what concerns me about that is, I've been in state patrol cars before when I have seen them operate this radar on the interstate and they will oftentimes point the radar two or three or four hundred yards down the interstate in front of them and then clock the speed of oncoming cars, cars that are coming towards them on the interstate. Now I'm just sure, based on the way I have seen them operate that equipment that it is impossible for them to make an independent judgment that a car is speeding before they turn on that radar device and I would question Senator Chambers that if we are going to have a provision or a requirement like that in the law, if we're not inviting the state troopers to fabricate testimony when it comes to trying a case if they are interested in getting a speeding conviction in a situation where they are heading one direction on the interstate and an automobile is coming towards them in the other direction. Senator Chambers, can you respond to that?

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, Senator Hoagland is not the only one who has expressed concern for that provision but I gave you a handout that had my picture on it. I thought that might be striking enough to call your attention to it but I listed court cases. There is even one from Nebraska and if you eliminate the requirement that visual observation be made first, then you are ensuring a defeat of that prosecution. The court wants to know whether or not the officer made an

independent visual observation and estimate of the speed and included in that handout is material from the manufacturer of the K-55 which is the radar unit used by the Nebraska State Patrol. The K-55 manufacturer gives a brief summary of the cases existent at the time their manual came out and among the things that it states specifically is that he should have made a visual observation of its apparent excessive speed. Then there are cases that were cited in the handout that I gave you which require a visual observation. Now the Nebraska case, because Senator Hoagland may be interested in it, was Peterson v. State, 163 Nebraska 669, and here is the language actually quoted from that Supreme Court decision. "And the court is talking to the officer. The Court: Do you have an opinion independent of the radar as to the speed of the car? Answer: Yes. The Court: In your opinion what was the speed? Answer: 70 miles an hour." On recross examination the officer testified that his estimate was based on his observation of the vehicle and that his opinion was not influenced by the reading made by the radar. What has been shown, and I tried to explain that in my first offering of the bill, is that there is a way to dial up a set of numbers on the radar device. These numbers represent the speed that will set off a buzzer. So if an officer is not paying attention and the buzzer goes off, he does not know whether there was a vehicle which will be called the target vehicle which caused it to go off, interference, a reflected signal or any of other thirteen errors that could occur. So the requirement in this case is similar to what you call probable cause. The officer has to have a reason to intrude into a person's privacy in a vehicle, on the highway. The only way an officer has of being somewhat certain that the vehicle he intends to ticket is the one that set off his alarm is to have been observing that vehicle, be aware roughly of the range of his unit so that he will know when the buzzer goes off if that car was even within range to be read. And, Senator Hoagland, if they set the radar so it will read to three to four hundred feet or yards down the highway, they are in a greater danger of having an error at that time because the handout that I gave you was from Popular Science. It has no ax to grind with radar. They were giving technical explanations of how radar operates and they showed a drawing to demonstrate how errors can occur. It shows a string of vehicles of different sizes and the radar will probably read the largest vehicle regardless of whether or not it is the fastest. So the officer has got to make the visual observation. His radar can be going all the time but before he decides to ticket a specific car he has to have made a determination that that car, in fact, is probably exceeding the

speed limit and the radar corroborates that judgment. That is what the courts require now so if you take that away you are trying to reverse what the courts have already done.

SENATOR HOAGLAND: I wonder, Senator Chambers, if I can address one more question to you. Now from those passages that you quoted from the courts opinion and from the scientific article, it didn't seem to me that the manual recommends that the officer make that independent observation prior to turning on the radar. Couldn't they happen at the same time? The problem I have with your bill was before he even turns the radar on he has got to independently observe the car speeding. Now that isn't exactly what those articles say, is it, Senator Chambers?

SENATOR CHAMBERS: First of all the bill does not say the radar cannot be turned on. Here is what the language says specifically. The law enforcement officer made a visual observation of the offending vehicle and determined such vehicle to be operating of excess of actual speed limit prior to using such radio microwave or other electronic device for corroboration. The radar can be on and he might be getting all kinds of readings but when he decides that he has got a car that he is going to ticket he should have observed that vehicle to be certain that this is the one that called up the reading on his unit before he tickets it. So it is like premeditation. It can occur months in advance or a few seconds in advance so there is no time lag involved here. What it is attempting to do is to be certain that the officer is concentrating enough on what he is doing to be certain that the proper driver is ticketed.

SPEAKER MARVEL: The Chair recognizes Senator Chambers. Do you wish to speak?

SENATOR CHAMBERS: Yes. Mr. Chairman, I'm in opposition to Senator Hoagland's amendment. Even though were you to strike this language you have not done anything that would hurt what the bill is trying to do except that you may give officers the impression that they need not make the visual observation. Remember, the manufacturer who has been the one up until a short time ago that trains the state patrol has told them repeatedly to make the visual observation. There was a prior bill before this one introduced, I think, two years ago and the testimony of the training officer, Captain Svoboda, is that they instruct the officers to make the visual observation first. I don't know why this has become such an issue

when all of those who deal with radar know that it is one of the most important aspects of the operation of the machine. All you will do is make it easier for me to win if I happen to get a ticket. I would just ask the officer, did he make a visual observation first, and he would say, I'm trained not to do that and that would wipe out any other consideration. Not only did he not do it but his training itself is defective so I am asking that you not accept Senator Hoagland's amendment, that you leave the bill intact and move it along. If you are interested enough to read the brief notations that I put in the handout that I gave you, you will see case after case after case with the appropriate citations so that you can look it up and read the entire case if you choose to do so but the items that are contained in this bill are lifted bodily from training manuals and from court decisions. What it would do is give in one location, notice to the officer, to the court if there happens to be one in the state which is not cognizant of these things and to the motorist of what is required when radar is used to obtain a conviction against a citizen. So I am asking that you defeat Senator Hoagland's motion.

SPEAKER MARVEL: Senator Kahle, do you wish to speak to the Hoagland amendment?

SENATOR KAHLE: Yes, Mr. Speaker. I have a fear that what we are doing here is loaded in favor of heavy traffic and being able to evade being caught in heavy traffic. Now Senator Chambers has said that if a truck is coming along side in front of or behind a car, the radar will probably pick up the truck and perhaps not the car. The biggest chance that we have in outstate Nebraska in getting picked up is probably not on the interstate, it is on one of the state roads where you and the patrol car are the only two vehicles on the road. So there is no question that you are speeding, I guess, if you are picked up. I had that experience. I came over one hill and a patrolman came over the other and I was going too fast and I guess it wouldn't have made any difference whether the radar was on or off, I was a dead duck. But what happens is that...I think what Senator Chambers is doing is going to hinder the patrol from picking up speeders where the traffic is heavy and perhaps help them where it is thin. So I don't know how to cope with it but it looks like it is discriminating against the lesser populated areas in favor of the more populated areas because if you have to determine whether a guy is speeding when he is the tenth car down the line. I don't know how you are going to do it and I guess while I have the floor I'm

quite concerned that we are afraid that radar isn't perfect and I'm sure it isn't perfect, and yet we trust our whole defense of this country, the navigation of ships and airplanes and just about everything we do to the exactness of radar. So I think that Senator Hoagland's idea is a good one. Thank you.

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, members of the Legislature, this that we are going into now relates to the technical aspects of radar and is what the state patrol tries to avoid because they can't cope with it and it destroys them. First of all, radar as used in a police vehicle is not even radar. Radar tells you, not only the speed at which an object is moving, but the distance from you and, Senator Kahle, the radar used in the military is known as pulse radar. It sends out bursts of energy and each time the burst hits the target if the target is closer, then the amount of time it takes that burst to come back will let the radar know how much distance that particular target has moved and lets you calculate the distance but police so-called radar sends out a steady stream of radio microwaves and it cannot tell you the distance. It can only tell you the rate of speed assuming that it is accurate. So we're not even talking about the kind of radar that you make weather predictions or that you use in the military. As a matter of fact, the weather people have a term something like propagation of echoes or echo propagation which means that false readings are occurring. There is no target that causes the radar to read even in weather situations. It will show clouds or storm centers that do not exist because there are many factors that can cause a reading on radar. As far as trying to use radar to determine out of a string of ten cars that the tenth car may be speeding, that is an absolute impossibility with police radar because if more than one target is giving a reading nothing will show on the screen at all. And if you look at any manual it will show you that you cannot try to pick one car out of a group because you cannot aim radar like you do a rifle. A radar beam may be spread several hundred feet wide by the time it is a hundred yards from the transmitter. So if an officer has told you that he can aim a radar device four hundred yards down the highway, he is probably encompassing every field that you can see with your eye. So he is not measuring what is coming to him in a lane of traffic. Anything that will reflect a radio microwave will have some bearing to some extent on what the radar may read. So the further away the targets are the more likelihood there is that you are not going to read the correct target. What I am telling you is based, not only on my research, but on the manuals that are pre-

sented, the one that I believe the state patrol now is using in their training because I used it to smash a ticket that I was given. The reason I did it was to demonstrate the type of training that the state patrol needs and they had a man down in Plattsmouth taking notes and he told me that they were constructing a training program based on some of what I was bringing out in that case, Senator Kahle. So if anything, you can say that I am fashioning the rope for the state patrol to use in hanging me. That is all that you could say but to sit here and think in incorrect terms that you can have a pack of cars approaching a radar device and you can read individual speeds on that radar of the cars is a total, absolute impossibility. It cannot occur and if an officer testified in a court that there were five cars in front of you, five cars behind you, and the reading of sixty-six miles an hour he is going to attribute to your car, the judge would throw it out. It cannot be done. That is all that I am telling you. The reason I handed out the material was so you could glance at it and realize that I'm not the one who wrote this...

SPEAKER MARVEL: One minute.

SENATOR CHAMBERS: The Federal Highway Safety Administration is concerned about the junk radar that is on the highways and one such piece of junk is the K-55 used by the Nebraska State Patrol and one of the handouts included a letter from the State of Washington State Patrol which tells why they rejected the K-55, the antenna beam width was too great, the patrol car lock-on speed was too narrow and the other things that relate directly to the reliability of the radar reading were absent in the device used by the Nebraska State Patrol. So what this bill will do is to put some due process requirements into the law and I don't think Senator Kahle or anybody else in this Legislature is in favor of convicting the innocent. That is what is happening now. Judges have stated that the wrong person has been given a ticket and has been convicted because of the lack of training of the officer, the lack of proper operation of the equipment. This bill simply sets the procedures out in a laundry list.

SPEAKER MARVEL: Your time is up. Before I turn the mike over to Senator Hoagland, in the North balcony there are thirty-four students, six sponsors, one group of parents from Nebraska City, Hastings, Fullerton, Seward, Lexington and Tecumseh and they basically are interested in the testimony as far as the energy bill is concerned. Several of them in the past few weeks have become a member of the Energy Independence Army so I suggest that we welcome the ladies and gentlemen to the Unicameral. Now, Senator Hoagland, I recognize you to close.

SENATOR HOAGLAND: Mr. Speaker and colleagues, I think Senator Kahle's comments really hit the nail on the head as far as my concerns with Senator Chambers' bill are concerned. Since I filed this amendment I have received a letter from Colonel Kohmetscher of the state patrol and I assume some of the others of you have also and Colonel Kohmetscher expresses concerns about this particular section that I am moving to have stricken and the previous section in the bill and frankly, what I am most worried about as far as Senator Chambers' bill is concerned is that it is going to make it considerably more difficult to convict people in the State of Nebraska of speeding, using radar devices, particularly as Senator Kahle has indicated in the rural areas where there is really heavy traffic and where radar is not as useful. Now I can sympathize Senator Chambers' due process concerns about people charged with speeding but I guess my own feeling about that is that while in more serious offenses, felony offenses and capital offenses, we need to be very concerned about due process violations. I'm not quite as concerned in a very minor offense like speeding where we lose so many lives annually because of the reckless use of automobiles on the highway whether the people are intoxicated or whether they are not and I would just hate to see this Legislature pass a bill which would, it seems to me, make two mistakes. First of all, take away from the courts their ability to set down the standards by which radar ought to be used and we are doing that in this bill. We are telling the courts that before a state patrol officer can convict somebody of speeding using radar, he has got to testify to all these specific things and it seems to me the courts are able to impose whatever due process requirements it thinks are appropriate. And my second concern is that by laying down all these criteria that have to be proven in court at a speeding trial before somebody can get convicted, the simple fact of the matter is we're making it a lot tougher to convict people and that in turn is going to encourage more people to speed if they want, particularly as Senator Kahle indicates in high truck traffic volume areas around the interstate around Omaha where radar is of less use anyway. So coming back to the specific issue here, I think it is too burdensome to require a state trooper to testify at a trial under oath that he has made an independent judgment to somebody's speeding before he has used that radar device. If you are going to require him to testify to that in some instances you are going to be requiring him to fabricate testimony because that is simply not going to be the case and the bottom line, it is just going to be tougher to get speeding convictions and it seems to me, if anything, we ought to make it easier to get speeding convictions even if occasionally the radar is faulty and even if occasionally we're convicting the wrong person because it is going to have

a general deterrent effect and keep people from speeding on our highways and we will all benefit from that. So I would ask that this body adopt this amendment. Thank you, Mr. Speaker.

SPEAKER MARVEL: The motion is the adoption of the Hoagland amendment to LB 413. All those in favor of the motion to adopt the amendment vote aye, opposed vote no. Have you all voted? Have you all voted? Senator Hoagland, what is your pleasure?

SENATOR HOAGLAND: I kind of hate to tie the body up on this amendment, Mr. Speaker. If perhaps we could have a Call of the House and accept call in votes at this point?

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

CLERK: 20 ayes, 1 nay to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please take your seats and record your presence. The Clerk is authorized to accept call in votes. Senator Schmit, will you record your presence please. Senator Newell, will you please record your presence.

CLERK: Senator Vard Johnson voting yes.

SPEAKER MARVEL: Is Senator Cullan in the room?

CLERK: Senator Pirsch voting yes. Senator Beyer voting yes.

SPEAKER MARVEL: Okay, a roll call has been requested. The Clerk will call the roll.

CLERK: (Read roll call vote as found on pages 429-430 of the Legislative Journal.) 28 ayes, 15 nays, Mr. President.

SPEAKER MARVEL: The motion is carried. The amendment is adopted.

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

SPEAKER MARVEL: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, that is the most incredibly ignorant vote I have ever seen and a lawyer led you into it. If he had read the cases he knows that can't get the Legislature by a vote to overturn

what the courts allow so I appreciate your doing it. Now what I want the Colonel to do is to put this into the teaching and tell those troopers that you don't have to make a visual observation. Now let me tell you how I, who am disregarded so much on the floor of this Legislature, win radar tickets. Let me tell you, Senator Hoagland, who is a lawyer, I never testify. I never present evidence. Then how do I win? They can't make their case. They don't know what to testify to to get a conviction and if you think I'm not telling the truth, you can go to the Department of Motor Vehicles and I'll bet I've got fewer points against my license than anybody on this floor and I'll demonstrate that they have not convicted me for a radar ticket and radar is the tightest thing they have. You are encouraging them to remain ignorant. There are court decisions, I should have known you wouldn't read this, especially Senator Hoagland who even asked for it. A judge said in State against Hansen, and remember I'm making the motion to advance so I've got ten minutes, "we believe these conditions," talking about accuracy, competency of the officer and training, "are necessary to maintaining and improving public confidence in the law enforcement and judicial systems. For the average law-abiding American citizen, minor traffic offenses constitute the only contact such a person will have with the law enforcement and judicial systems. Public confidence rests upon the fairness of such proceedings." And it goes on to say you have to have meaningful standards to convict people. Let me read you from a judge now, a judge, a judge, Senator Hoagland, a j - u - d - g - e, judge of the United States jurisdiction who is talking about dismissing eighty-four radar citations. I recognize, Senator Hoagland, that many millions of dollars in revenue are involved in "speeding" fines but let it be understood once and for all, the function of the traffic court is to convict the guilty, acquit the innocent, Senator Hoagland, and improve traffic safety, not to be merely an arm of any revenue collection office. At the same time, if the heirs alleged by the opponents of radar do exist, then one must wonder and Senator Hoagland should get this so he will never come to me as some of you have done when your constituent gets a ticket. Don't bring that mess to me any more. What percentage of these millions of dollars has been collected from erroneously convicted defendants? How many of these defendants have suffered the additional penalties of extremely higher insurance rates and the unnecessary compiling of points with the consequent loss of drivers licenses and perhaps jobs? I am concerned about the innocent being convicted even though Senator Hoagland and last year, Senator Johnson said he is not, you've got to get a few innocent people. What kind of thing is that for a lawyer to say? When the cornerstone of American justice is that it is better to let ten guilty people go rather than convict one innocent

person and there are people out there with extreme bitterness against the state patrol and other police agencies because they know they were not speeding. They got the ticket. They went to a lawyer and the lawyer told them that it would be prohibitive based on the amount of the fine that they would have to pay to hire a lawyer to fight the ticket so plead guilty, though you know you are innocent, or they send them to me. I get letters from your constituents when they get a ticket and they feel they were unjustly ticketed and I help them. It is regrettable and it is a hard job but that is what my responsibility is, not because I am a member of this Legislature but because I have a personal principle in me that somebody ought not be punished when they have not done something wrong and it seems to me that should mean something to the conservatives and the others in here who laud obedience to the law to such a great extent. The collecting of traffic tickets and the money from them should not mean that much to the state patrol or even to this body. The thing which should be important is highway safety. The greatest deterrent to speeding is not the use of radar, but the presence, the visible presence of the marked cruiser. California writes 14% of all the traffic tickets in the country and they are forbidden to use radar on the highways of California. Now put that in your pipe and smoke it. So you sit up here and you let a person tell you that you ought to vote against what the courts require anyway because "I am concerned that what Senator Chambers is doing here is...whatever concerned him. And if it is necessary to convict a few innocent people, well them's the breaks. Sure I'm a lawyer, sure I took an oath, sure I believe in ethics, sure I believe people are innocent until proved guilty but when it comes to a traffic ticket that is so insignificant, go on and let the innocent be thrown in with the guilty." Then here stands a person on the floor of the Legislature who erroneously, I emphasize "erroneously", in the minds of most people on the floor of the Legislature and in this state epitomizes the reckless disregard of the law, the scofflaw, the one who speeds all the time up and down the highways. I do exceed the speed limit sometimes but not all the time. And to exceed the speed limit on the interstate is not to drive recklessly because it was designed for seventy-five miles an hour. Remember that and keep that straight. But the one that you say is the scofflaw cannot be convicted. Why? Because you have poorly trained state troopers. That is the problem and you are encouraging them to remain inept and incompetent. Do you know who was against me in my latest victory down in Plattsburgh? The vice president of the company who claims to have helped design the principle of mobile radar, their number one engineer who drew the designs, he says, for the radar.

Captain Svoboda who is the head training officer of the state patrol, the poor little officer caught up in this grinding machine and the county attorney who was the prosecutor. With those five high-powered people with right and justice on their side, they came and brought me before the bar of justice and without me offering a word of testimony, without me offering any evidence, I was acquitted. How can such things be? Because you have people like Senator Hoagland telling you that a high standard of professionalism and proper obedience to the requirements of the rules of evidence are not necessary in the State of Nebraska. Well you have made the bill palatable I presume for everybody. Now the requirement is training for the officer, proper operation of the equipment, it must be tested to be shown to be in working order and even Colonel Kohmetscher can't speak against those things. He might because he doesn't know much but I doubt if he would because the lawyer would tell him, "Uh uh, Colonel, I've got to draw you up short here. If you keep talking like that they will mistake you for the one who cooks chicken rather than the one who runs the state patrol so sit this one out and be cool." So I ask, members of the Legislature, that we take this poor mangled bill and let it limp on its way across the floor and maybe despite the fact that it won't do what I want it to do, which is give the officers a laundry list for obtaining convictions, it will nevertheless point them in the right direction. I thank you.

SPEAKER MARVEL: Okay, the motion before the House is the advancement of the bill. All those in favor of advancing 413 vote aye, opposed vote no. Have you all voted? The motion is the advancement of the bill. Record the vote.

CLERK: 25 ayes, 4 nays, Mr. President, on the motion to advance the bill.

SPEAKER MARVEL: The motion is carried. The bill is advanced. Do you have some items you want to read in?

CLERK: Mr. President, I have notice of hearing offered by the Miscellaneous Subjects Committee and Senator Wagner would like to print amendments to LB 675. And Senator Pirsch would like to print amendments to LB 465 and Senator Labedz print amendments to LB 431. (See pages 430-432 of the Legislative Journal.)

SPEAKER MARVEL: Is Senator Vickers in the room? Are you ready to take up LB 32?

SENATOR VICKERS: Yes, I am, Mr. President.

January 28, 1982

LB 32, 413

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer this morning by Dr. Al Norden, Pastor Emeritus, University Lutheran Chapel, the father of Don Norden as some of you know on the staff here so, pastor, will you give us...(inaudible.)

DR. NORDEN: Prayer offered.

PRESIDENT: Roll call.

CLERK: Mr. President, Senators Carsten, Chambers, Higgins and Hoagland would like to be excused for the day, Senator Hefner, Lamb, Newell, Wiitaia, Vard Johnson and Beutler until they arrive.

PRESIDENT: Have you all registered your presence so we can get going here? Senator Haberman, are you here? Would you show us you are here so we can start the day. Senator Remmers. Senator Landis, will you hit the button and we'll get going. Thank you. Record the presence, Mr. Clerk.

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

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

CLERK: I have no corrections, Mr. President.

PRESIDENT: The Journal stands correct as published. Any other messages, reports or announcements?

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined LB 32 and find the same correctly engrossed and LB 413 correctly engrossed. Both of those are signed by Senator Kilgarin as chairman.

Mr. President, I have a gubernatorial appointment offered by the Governor. That will be referred to the Reference Committee for reference for a confirmation hearing.

Mr. President, I have a report from the Thurston County Sheriff's Department and a report from the Nebraska State Patrol pursuant to statutory sections 28-429.

Mr. President, your committee on Judiciary gives notice of public hearing in Room 1113 for February 3, 8, 9, 16, 17 and February 22 and that is signed by Senator Nichol as Chairman.

February 3, 1982

LB 572, 413

SENATOR CLARK: The Clerk will read LB 572.

CLERK: (Read LB 572 on Final Reading.)

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

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: (Record vote read. See pages 527 and 528, Legislative Journal.) 49 ayes, Mr. President.

SENATOR CLARK: The bill is declared passed with the emergency clause attached. We will now take up 413.

CLERK: Mr. President, I have a motion on the desk. Senator DeCamp would move to return LB 413 to Select File for specific amendment. (Read DeCamp amendment as found on page 528, Legislative Journal.)

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, I am not going to spend a lot of time on this. The Hoagland amendment eliminated the requirement for visual observation in conjunction with the use of radar and I think Senator Chambers has amply documented that law enforcement and the courts themselves are the strongest insisters upon this requirement. So I guess I happen to believe that you are doing law enforcement a favor and the courts a favor keeping in law very clearly what they have insisted upon. That is all.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I agree with what Senator DeCamp has stated, and having given you the handouts that I have done, I don't believe that anything I said could elaborate or be more effective in presenting the need for this amendment so I support what Senator DeCamp is offering.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: Mr. President and colleagues, I don't feel strongly about this but let me just give you the

three reasons that I gave a week ago when we decided to take this provision out. I don't think we need to change this bill back to the way it was before and here are the reasons. First of all, this bill is going to make it tougher to convict people of radar convictions if it passes because it sets out the way it is presently written four separate things police officers have to establish before they can get a radar conviction. If this amendment is successful, there will be five separate things they will have to establish. Secondly if this principle is required by the law, I am sure the judges will apply it. The judges are ultimately responsible for providing for a due process guarantees in court. I don't know that we need to set rules of evidence for the courts or tell them by way of statutes that so intimately deal with the order in which evidence is presented and what kind of evidence is required for a conviction, to tell the court so specifically how to run their business. They are a third branch of government. They are responsible of being sure that trials are conducted in a fair manner in this state, and if Senator Chambers is correct that these principles are required, I am sure the judges are going to apply them. Third, I do quarrel with the language in the bill the way it was written by Senator Chambers earlier and that is that before the police officers can even take a radar reading of an automobile they have to first make a visual observation that that automobile is speeding. Now I don't know why those things can't be done concurrently. It seems to me as I indicated before if a police officer is going in one direction down the road and an automobile is approaching him from the other direction, it is going to be virtually impossible for a police officer looking at a car seventy-five or a hundred or two hundred yards in front of him coming towards him to tell the difference between a car that is going fifty or fifty-five or sixty or sixty-five, and to require that that officer make an independent judgment that that car coming towards him is speeding before he can use his radar device, it seems to me is a policy mistake. Now we are going to be inviting the police officers to fabricate testimony because you know in many cases they are not going to be able to do that. They are going to have their radar device going and they are going to see that the radar sees he is speeding and then concurrently, perhaps, make an independent judgment that the car is speeding, but to require that he can't use his device until after he makes that independent judgment, as Senator Chambers' language requires, it seems to me is not good public policy, is requiring the officers to fabricate if they want to get a conviction. Finally, if it is required, why the judges are going to be perfectly capable of imposing that obligation on the

State Patrol without our having to come in and tell the judges they have to do that. So those briefly are my three reasons for opposing this. Again I don't feel that strongly about it, whatever this body wants to do, but I am going to oppose the DeCamp amendment and think that it is good public policy to oppose the DeCamp amendment. Thank you, Mr. President.

SENATOR CLARK: I would like to introduce to the Legislature, if I am not too late already, Lt. Bruce Drake. He was under the North balcony, I believe. There he is. He is Lottie Henderson's grandson, our postmistress. He is going to Scotland from Lincoln. Welcome to the Legislature. Would you help me welcome him? Is there any further discussion? If not, Senator DeCamp, do you wish to close?

SENATOR DeCAMP: Mr. President, I guess I think it is important if you are going to pass the bill to adopt the amendment. Now I am not going to give you any judgment as to whether you should or should not pass the bill. The bill deals with the use of radar. It tries to establish... clear up a whole bunch of questions that have been raised in the past many years as to standards, procedures, so on and so forth, and that is a separate issue, but if you are going to pass the bill and you are writing the standards, then it makes no sense to me to leave out one of the key ones. The key ones, not as cited by Ernie Chambers necessarily, but as cited by the courts, by the Patrol, so on and so forth. Senator Hoagland's arguments address more the issue of whether you should have anything in the law on it or just leave it up to the courts kind of like and I think that is on the bill. The amendment says if you are going to have the bill, have one, two, three, four, what the standards are, have them in there, and so that is why I am suggesting you strike the Hoagland amendment because it takes one of the key elements, key elements certified by law enforcement, and says we are leaving this out and I think that is kind of dangerous. If I were a judge, I think, and I got a bill like this, I would say, well, look, the Legislature specifically said this isn't included because they took it out. The Hoagland amendment takes it out. No big deal but as I say, if you are going to pass the bill, I think you ought to have it in proper form and I think you have to have the Hoagland amendment out of there and the language back in if you are going to pass the bill. That is all.

SENATOR CLARK: The question before the House is the return of LB 413 to Select File for specific amendment. All those in favor vote aye, opposed vote nay.

February 3, 1982

LB 413

CLERK: Senator Clark voting yes.

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

SENATOR DeCAMP: Yes, I would ask for a Call of the House...

SENATOR CLARK: We are technically under Call now.

SENATOR DeCAMP: Are we still?

SENATOR CLARK: Yes, we are still on Final Reading.

SENATOR DeCAMP: No, we are on General File...oh, yes, we are on Final Reading. Well, I would ask for people to check in.

SENATOR CLARK: Do you want a roll call vote? All right, we can do that. Everyone will check in please to find out who is on the floor. The House is technically under Call now. Every Senator should be in his seat and check in please. That includes Senator Goodrich. He will accept call in votes at the present time before we go to a roll call.

CLERK: Senator Goodrich voting yes.

SENATOR CLARK: We have seven that haven't checked in yet. Senator Fenger.

CLERK: Senator Vickers voting yes. Senator Beutler voting yes. Senator Witala voting yes.

SENATOR CLARK: The Clerk will record the vote.

CLERK: 26 ayes, 18 nays, Mr. President, on the motion to return the bill.

SENATOR CLARK: The bill is returned to Select File. Senator DeCamp, do you want to put the amendment up?

SENATOR DeCAMP: I would offer the amendment, and I repeat again, the bill and the amendment are two separate issues. I see no way you can pass the bill without having the amendment in there. In other words, as long as you are laying down standards, don't put fifty or sixty percent, put the key one as certified to by law enforcement. Now if you decide ultimately you have got a separate attitude on the bill, that is fine. But whether you are for it or against it, it would seem to me kind of halfway reasonable to make it kind of halfway right. So that is it.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAN: Colleagues and Mr. President, I can't help but respond to Senator DeCamp's argument. I mean there is no reason why this has to be part of this bill. To say that for somehow this bill isn't going to work unless this additional fifth requirement is part of all the other requirements that have to be established by State Troopers before they can get a conviction, and somehow you can't have the bill without having this fifth additional requirement just is a bogus argument, with all due respect, Johnnie. The more requirements you add to this bill, the harder it is going to be to get radar convictions. We are not convicting people of high-grade misdemeanors or felonies or capital offenses here. We are trying to make the highway safe. Several years ago before most of us were in the Legislature why Senator Chambers convinced this body to pass that rule about how if you are only ten miles over the speed limit on the interstate all that happens to you is a ten dollar fine. No court costs, no points, no nothing else. I don't agree with that policy statement. I think it is a mistake to have provisions in the law that is going to make it easier for people to speed or harder to convict speeders. Next to drunk driving, excessive speeding is one of the leading causes of highway fatalities. Now I know I was quoted in the paper the other day as saying that I am worried about the loss of speeding fines. Well, I didn't say that. What I said is I am worried about the loss of speeding convictions and the effect that is ultimately going to have on the safety of the highway system in Nebraska. I see no point in making it more difficult to convict people of speeding. Let's let the judges decide what kind of due process standards are required. They are responsible for conducting fair trials. They are responsible for making judgments as to whether there is evidence beyond a reasonable doubt to convict people. If people are going sixty-five or seventy or seventy-five miles an hour, let's convict them of speeding and fine them whatever the fine is and leave it to the judges to conduct fair trials. I don't know why we have to get into these rules that are purely matters of evidence, purely matters of what is competent evidence and what is not competent evidence when a judge sits down to try a case, and to say that somehow this additional fifth requirement is essential to the bill so the whole bill is destroyed without it, well, how about the fourth requirement that you all can see on page 3 of your copy of the bill, and I object to that requirement, too, and that requirement says that before an officer can testify about the results of a radar operation he has to have conducted a test both prior and after, within a reasonable amount of time prior and after, the time he clocked the person in

the case that is at trial at the time to see whether the machine is working. Now that means that these officers are going to be out there testing these machines repeatedly. It seems to me that if you tested it a couple of times a year or perhaps more frequently than that, that ought to be enough, but to say that before you can get a conviction under radar, there has got to be evidence that the measuring device was within a reasonable time both prior and subsequent to the arrest tested by the officer is unreasonable. If the judges want to impose that kind of requirement because they think it is necessary, fine, but for us to put that into state law so it is applicable throughout the state, I personally think is a mistake. Now again, I don't feel that strongly about it but on the other hand I don't like arguments to be made here that to me are not really legitimate, and to say that we have got to have this or the whole bill is wrong is not a legitimate argument. Thank you, Mr. President.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, the State Patrol is currently taking training which the Colonel apparently is totally unfamiliar with. I handed around court cases showing the requirements for the use of radar. I am sure that the young lieutenant that sits under the balcony and is in the Navy has probably had some experience with radar and could explain to you how unreliable these devices can be. They are not infallible. So maybe you ought to ask him for his opinion. But here is the point that we are dealing with here, I handed around court cases that show what actually is required to obtain a radar conviction. I handed around portions of a transcript of a trial involving myself where I was charged with going sixty-six in a fifty-five mile an hour zone. After seven hundred and fifty or thirty something pages of testimony, I was found not guilty because the state failed to make its case. You can put things into the minds of people on the floor of the Legislature as to what should and should not be but I have demonstrated in the court room that the State Patrol is not properly carrying out radar functions. Remember, I did not testify, I did not offer evidence. The state simply failed to prove its case. The transcript alone cost the state over a thousand dollars. The two state troopers, one of them being the one who accused me of the speeding, the other the Captain who gives the training for the State Patrol, were at the court house I believe five different days. So there were additional costs involved in those appearances to the state and they lost. The reason they lost is because they did not follow the procedures that are necessary. I

handed you portions of a study program put together by the U. S. Department of Transportation telling the officers item by item what they must be able to testify to in order to obtain a conviction. The emphasis is placed on the fact that moving radar is highly unstable and unreliable if certain precautions are not taken. Because the environment in which the radar is functioning changes as the vehicle of the officer driving the car moves, it is necessary to make certain that in the location where the reading is taken there is no outside interference that would cause a false reading on the radar device. This is why the courts themselves have required before and after testing of the radar. What you will have in this bill is a blueprint for the officer and for those who train that officer in what the courts require for a conviction. I included letters from radar manufacturers who state the sequence for obtaining these convictions. I even included something from the State Highway Safety Commission, or whatever they are called, about the necessity of having these tuning forks calibrated because the court requires them as an external test for these radars before and after use. If the tuning fork is not accurate, there are problems that evolve. So although Senator Hoagland may be enamored of the mystic of the machine, and especially radar, the courts are not. The courts require certain things. Now if you don't put these requirements into the law, then you simply allow the State Patrol to use an erroneous procedure based on emotional considerations rather than legal. They will continue to lose cases because they will say the Legislature told me that it is not necessary to test this device before and after use, even though the courts in Nebraska have established that as a requirement. They will be able to say I need not make a visual observation because...

SENATOR CLARK: You have one minute left.

SENATOR CHAMBERS: ...the Legislature says that I don't and they will lose on that score, too. If they do not have the external test, it is over immediately. Remember, I have had experience in the courts. If you don't accept this provision as Senator Hoagland has pointed out, the courts will put it in anyway whenever somebody comes before them but the patrolman will not have the notice in advance of what is required of him. He might even think that despite what he is taught, what the Legislature has said would overbalance that which it does not.

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

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

probably the only law, criminal law, in this state that almost every citizen has some contact or involvement with at one time or another is our speeding laws and it is important that in those disputed cases both sides, the patrolmen, the courts, and the individual potential speeder, know what the law is. That seems to make minimal sense on the most enforced law of all. And remember, ninety, I don't know what percent, but I am going to guess ninety some percent of all your speeding things are accepted automatically. When somebody does challenge it usually they do it because they sincerely believe it is wrong for some reason or another. Is it so bad, then, to have standards so that they know what the rules are? But let me finish my argument with something absolutely and ultimately simple, and I wish I had Senator Hoagland here to ask him a question. Is Senator Hoagland available?

SENATOR CLARK: Senator Hoagland.

SENATOR DeCAMP: Senator Hoagland, one quick question, what is the law right now, this moment, in the State of Nebraska on this particular question? Is visual observation in conjunction with the radar device a requirement?

SENATOR HOAGLAND: Senator DeCamp, I can't answer that but that is not what Senator Chambers...

SENATOR DeCAMP: That is what I thought. You can't answer that.

SENATOR HOAGLAND: But, Senator DeCamp, that is not what Senator Chambers provision requires. Senator Chambers provision requires that the radar can come only after the visual observation and that is my objection.

SENATOR DeCAMP: Senator, the proposal, the original language requires that visual observation be a part, a fundamental part of the radar activity and I think Senator Hoagland did answer it accurately. He doesn't know what the law is. The most enforced criminal law somebody should know and that is all it does, it clarifies what the law is for both sides. Above and beyond that, I think my good friend Senator Hoagland maybe has a little misconception of how these radars work. It isn't like...well, it isn't like an old Ford car where you maybe change the oil once every six months or ten months. They are very fine devices, a tuning fork, and his recommendation that, aw, heck, you check it out every six months or a year I think reflects maybe his lack of in depth research in this particular subject. I think it is a reasonable amendment if you want to adopt the law, and as I say, the law itself is a separate question.

February 3, 1982

LB 413

SENATOR CLARK: The question before the House is the adoption of the DeCamp amendment. All those in favor vote aye, opposed vote nay. Have you all voted? The adoption of the DeCamp amendment. Record the vote.

CLERK: 18 ayes, 25 nays, Mr. President, on the adoption of the amendment.

SENATOR CLARK: Motion lost. Do you want to return the bill to...do you have another one. All right, a record vote.

CLERK: Mr. President, a record vote has been requested. (Read record vote. See page 528, Legislative Journal.) 19 ayes, 25 nays, Mr. President, on the motion to adopt the amendment.

SENATOR CLARK: The motion lost. Senator Chambers, do you want to readvance the bill to Final Reading. We will read the bill.

SENATOR CHAMBERS: Yes, Mr. Chairman, members of the Legislature, as Senator Hoagland did correctly point out the courts will require this provision anyway so the damage has not been done to what the courts will require. It simply means that the officers may not realize they have to do this, but based on the training, I think they know and they will do it and they will so testify. So although I wanted the proposition, I don't think that its deletion is fatal to the bill so I am asking that you advance it even though that proposition was not reinserted in the bill.

SENATOR CLARK: Did you readvance the bill?

SENATOR CHAMBERS: Yes, I moved that it be readvanced.

SENATOR CLARK: The motion is readvancing the bill. All those in favor say aye...machine vote has been requested. All those in favor vote aye, all those opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted on readvancing the bill? One more time, have you all voted on readvancing the bill? Record the vote.

CLERK: 25 ayes, 20 nays on the motion to readvance the bill to Final Reading, Mr. President.

SENATOR CLARK: The bill is readvanced. The Clerk will now read LB 413.

February 3, 1982

LB 115, 115A, 139, 139A, 212A,
LB 450, 576, 583, 588, 589,
LB 413, 631, 634, 670, 672,
LB 706, 735, 851

CLERK: (Read LB 413 on Final Reading.)

SENATOR CLARK: All provisions of law according to procedure having been complied with, the question is, shall the bill pass? All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: (Record vote read. See pages 529 and 530, Legislative Journal.) 20 ayes, 27 nays, 2 present and not voting, Mr. President.

SENATOR CLARK: The bill having not received the required number of votes has failed to pass on Final Reading. We will now to to item #5, General File. Does the Clerk have anything to read in?

CLERK: Mr. President, your committee on Public Works whose Chairman is Senator Kremer to whom we referred LB 670 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; and LB 851 advanced to General File, both signed by Senator Kremer.

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 139 and find the same correctly engrossed; 139A correctly engrossed; and 450 correct engrossed. (Signed) Senator Kilgarin.

Your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 631 and recommend the same be placed on Select File with amendments; 589 Select File; 212A Select File with amendments; 115 Select File with amendments; 115A Select File with amendments, all signed by Senator Kilgarin.

Your committee on Constitutional Revision and Recreation whose Chairman is Senator Labeledz to whom we referred LB 576 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; 583 General File with amendments; 588 General File with amendments; 634 General File with amendments; 672 General File with amendments; 706 General File with amendments; and 735 indefinitely postponed, all signed by Senator Labeledz as Chair.

Mr. President, your committee on Ag and Environment will have an exec session at eight forty-five on Thursday, February 4 in Room 1105, Senator Schmit's office. That is an exec session of the Ag and Environment Committee tomorrow morning at eight forty-five in Senator Schmit's office.

February 8, 1982

LB 139, 413, 573, 633,
647, 681, 696, 744,
767, 779, 827

Senator Wagner would like to print amendments to 696.

Your committee on Education whose Chairman is Senator Koch reports LB 827 to be advanced to General File with committee amendments. Signed by Senator Koch.

Your committee on Government reports 647 advanced to General File; 696 General File; 767 General File; 681 General File with amendments; 744 General File with amendments. All signed by Senator Kahle.

Mr. President, Senator Marsh would like to print amendments to LB 139 in the Journal.

Senator Chambers moves that the body reconsider its Final Reading vote on LB 413. That will be laid over.

Your committee on Rules gives notice of hearing.

Your committee on Public Works reports LB 573 advanced to General File with committee amendments; 633 advanced to General File with amendments. Signed by Senator Kremer.

SENATOR CLARK: LB 779.

CLERK: Mr. President, LB 779 (read title). The bill was read on January 12, referred to the Banking Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President.

SENATOR CLARK: Senator DeCamp, committee amendments.

SENATOR DeCAMP: Mr. President, since the committee amendments are nothing more than putting in four words that were left out by the bill drafter when the bill was drafted which coordinate with the rest of the bill, what I thought would be proper then would be to explain the whole bill or attempt to and deal with the whole bill rather than just deal with the amendment separately. LB 779 has several sections and several purposes and once again it was a bill introduced at the request of the Nebraska Bankers Association. It deals with matters in banking. As everybody knows, banks also need on occasions to borrow money to meet day to day reserve and other requirement. Okay, Section 1, in line 5, in other words, Section 1 of the bill eliminates a term called "rediscounts and bills payable". The reason this is eliminated is because it is obsolete and nonapplicable language and we substitute instead the modern language of "direct borrowing". Now this section broadens, so everybody understands, I am broadening the

February 17, 1982

LB 69, 259, 413,
684, 967, 968

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

CLERK: Mr. President, new bills, LB 967 by the Business and Labor Committee and signed by its members. (Read by title for the first time as found on page 718 of the Legislative Journal. Also read LB 968.)

Mr. President, Senator Wiitala and Senator Kilgarin ask unanimous consent to add their name to 259 as cointroducers.

SPEAKER MARVEL: No objections, so ordered.

CLERK: Mr. President, I have a new resolution, LR 233. (Read as found on page 719 of the Legislative Journal.) The resolution is offered by Senator Newell. It will be referred to the Reference Committee for reference, Mr. President.

Mr. President, I have a notice of Revenue Committee Executive session upon adjournment today in Room 1520. That is Revenue Committee upon adjournment today in Room 1520

Senator Marsh would move to reconsider the Legislature's action in failing to pass LB 69 on Final Reading. That will be laid over. (See page 719 of the Journal.)

Mr. President, I have a motion from Senator VonMinden that LB 684 be placed on General File pursuant to Rule 3, Section 18(b). That too will be laid over.

SPEAKER MARVEL: The next item of business is LB 413.

CLERK: Mr. President, Senator Chambers pursuant to our rules has made a motion to reconsider the Final Reading vote on LB 413. The motion is found on page 592 of the Legislative Journal.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, this bill on Final Reading failed to muster 25 votes so what I am asking that you do is vote to reconsider. It will take 30 votes to do so. Let the bill be brought back to Final Reading or revived on Final Reading, let it stay there until any questions you have can be answered because I think there has been a lot of confusion about exactly what this bill does. Now I wrote to Colonel Kohmetscher and pointed out to him that some statements he made in a letter to Senator Nichol go contrary to the training that the state patrol uses with reference to radar and in a letter that I got from Colonel Kohmetscher which I have circulated to you this morning, he says, "Naturally our training does

support that visual observation comes first." Now that was the big issue in the bill. All of the case law indicates that this is what must happen. In the manual that the state patrol uses for training now, the manual is produced by the Department of Transportation, Federal Highway Administration Division of it, and it points out that radar is not to be used like on a fishing expedition, that one of the problems is target identification meaning that you must be certain that the car that you are going to ticket is the one that caused the reading. Before this can be done the officer must be visually monitoring the traffic. When he observes a vehicle which seems to be violating the limit, his radar by the way could have been on all the time, then he begins to take readings on that particular vehicle to establish that it is the one which, in fact, is causing the reading. Since there was so much confusion about that particular aspect, the visual observation, I wanted to have in writing from Colonel Kohmetscher a confirmation that what I told you all this time is true, that the patrol right now does train these officers to visually observe the traffic, make a determination that a car probably is exceeding the limit and then begin to use the radar for the purpose of showing that that individual car is the one that is guilty of the violation. Other aspects of the state patrol's training mirrors precisely the provisions of LB 413. So what I am asking this morning is that you vote to reconsider the failure on Final Reading of this bill to obtain 25 votes. One other matter, I can show you material from manufacturers, from the training manuals of various state patrols throughout the country that will show that the provisions contained in LB 413, in fact, represent the means by which a radar conviction is to be obtained. Another handout that I think you may have by now shows you what is taught to these officers at the Nebraska Law Enforcement Training Center. It points out and emphasizes the need for the visual observation. It points out the need for before and after testing of the unit to ensure that it was functioning properly at the time that a violation was determined and it also gives a list of sample questions that the officer may have to answer when he is in the courtroom. So if you will look at these items and agree to bring this bill back or to revive it by virtue of a successful reconsideration motion, then any questions any of you have on any aspect of this bill I would be happy to answer them. The one other matter I want to mention that I didn't have time to copy for you and hand out, in the Sunday World Herald, the magazine section they did an article on a judge named Morgan. I forget his county but he said that he is very hard and very demanding when an officer brings a radar citation to him. He wants to be sure that the officer properly identified the correct vehicle, he wants to know where

the radar was pointing, what kind of training the officer had, what steps he took to make sure the radar was functioning properly. So all that 413 will do is make uniform across the state for the officers to understand in advance, what is required to obtain a successful radar prosecution. If you have any questions on any aspect of the bill I hope that you will present them. The final item, you struck from the bill a requirement that the officer allow the person stopped to view the reading on the radar device. That was stricken from the bill but if you will notice in this packet from the Nebraska Law Enforcement Training Center, one of the questions which is asked and the officer should be able to answer in the affirmative, it would be on page four of the handout, "Did you offer to let the defendant look at the reading on the radar device?" Remember, what I am telling you is contained in the training given right now. Although the state patrol receives it a lot of the smaller local law enforcement agencies do not practice these procedures. Some of the sheriffs' departments do not practice these procedures so I hope you will think of the bill more than just with reference to how the state patrol operates. There are far more agencies in the state that use radar than the state patrol. This would formalize and make uniform the procedures, give notice to everybody as to what is entailed in obtaining a correct radar clocking and a successful radar prosecution. So I am asking that you vote to reconsider this bill.

SPEAKER MARVEL: Any further discussion? Okay, the motion before the House is to reconsider the vote on Final Reading and this takes 30 votes. All those in favor...do you want a Call of the House?

SENATOR CHAMBERS: Yes, because a lot are not here and I would have to do it anyway.

SPEAKER MARVEL: The first motion is shall the House go under Call. All in favor of that motion vote aye, opposed vote no.

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

SPEAKER MARVEL: The House is under Call. All legislators should be in their seats. Record your presence. Senator Schmit, will you please record your presence. Senator Newell, will you please record your presence. Senator Nichol, will you please record your presence. Senator Cope, will you please record. Senator Beutler, will you please record your presence. Senator Chambers, do you want to record your presence. Would you record your presence, please. Mr. Sergeant at Arms, we're looking for Senator Higgins. Senator Chambers, we are lacking one legislator.

February 17, 1982

LB 413, 717

Senator Higgins is on her way. Do you wish to proceed with a roll call?

CLERK: Mr. President, the motion is to reconsider the vote on Final Reading of LB 413. (Read roll call vote as found on page 720 of the Legislative Journal.) 24 ayes, 19 nays, Mr. President, on the motion.

SPEAKER MARVEL: Motion lost. The Call is raised. Okay, we go to item #6, General File, special order, LB 717.

CLERK: Mr. President, LB 717 offered by the Judiciary Committee and signed by its members. (Read.) The bill was read on January 8 of this year. It was referred to Judiciary for public hearing. The bill was advanced to General File, Mr. President. There are Judiciary amendments attached.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, this bill was before the Judiciary Committee and has to do with the Nebraska Law Enforcement Training Center at Grand Island, Nebraska, and of course with that we have the law enforcement improvement fund which for several years has been funding the operation out there and what has been happening with inflation and so forth, funds are running out and by the middle of 1981-'82 or I should say 1982 year we will most likely run out of money. As you know we have been funding this with a one dollar charge on each criminal proceeding including traffic violations filed in all the courts in this state and the violations of state law and city ordinances as well. So what the bill originally said was that we would charge three dollars for each charge and the amendment says that we will charge two dollars for each violation instead of three and also the other amendment was to add the emergency clause since we will need this money during 1982. I move for the adoption of the committee amendments.

SPEAKER MARVEL: Senator Chambers, do you wish to speak to the motion? Senator DeCamp. Okay, the motion is to adopt the committee amendments as explained by Senator Nichol. All those in favor of the motion vote aye, opposed vote no. Have you all voted? Okay.

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

SPEAKER MARVEL: The motion carried. The committee amendment is adopted. Senator Nichol.

April 14, 1982

LB 115, 413, 590
LR 295, 386

been restored, it truly is a marvelous idea. Whether you hike or bike, you will enjoy it, believe me. Also, look at the remainder of Ft. Kearney, that is what has been restored and Ft. Kearney Park. It will be a big day.

SENATOR CLARK: There is nothing before the House thank you. I would like to report a guest of Senator Remmers, Bob Williamson, under the south balcony. He is a member of the Grain Sorghum Board from Dawson, Nebraska. Will you stand and be recognized please, Bob. Welcome to the Legislature. We will now go to item number seven, under 952, yes. The Clerk would like to read some things in.

CLERK: Mr. President, I have a gubernatorial confirmation, or a gubernatorial appointment, I should say, that will be referred to the reference committee.

Senator Wagner asks unanimous consent to have his name added to 295 as co-introducer. (LR 295).

Senator Chambers would move to suspend the appropriate rule to reconsider 413 on Final Reading. (LB 413). That will be laid over.

New Resolution, LR 386, by Senator Hoagland. Read LR 386. That will be laid over, Mr. President.

Mr. President, Senator Wiitala would move to reconsider the Legislature's action on LB 115, Senator Beutler to reconsider the Legislature's action on LB 590.

SENATOR CLARK: Is Senter Newell in the room? The last motion we have is Senator Newell's, is he here? Senator Lamb, this is the last motion we have and Senator Newell is not about, I do not know where he is. He is not in the ante room. I'll recognize Senator Lamb for adjournment.

SENATOR LAMB: Mr. President, I move we adjourn until 9:00 Friday morning.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. We are adjourned until 9:00 a.m., Friday morning.

Edited by:

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