

March 23, 1981

LB 40, 157A, 253, 317,  
427A, 472A, 478, 543

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

CLERK: 16 ayes, 5 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators return to your seats, record your presence, unauthorized personnel please leave the floor, and as soon as everybody is in their seats, we will proceed with the roll call vote.

CLERK: Mr. President, while we are having members check in, Senator Lamb would like to print amendments to 317; Senator Hoagland to 253.

I have a corrected committee statement for LB 543 from the Banking Committee.

An announcement from the Administrative Rules and Regulations committee.

Appropriations Committee gives notice of executive meetings Monday, March 23 at adjournment and for March 24, 25 and 26.

New A bills, LB 157 A, (title read); LB 472A, (title read); and LB 427A, (title read).

Senator Hoagland would also like to print amendments to LB 478, Mr. President.

SPEAKER MARVEL: Senator Burrows, do you want to record your presence? Senator Pirsch, do you want to record your presence? All legislators must be in their seats before we can start the roll call. Call the roll. The motion before the House is the advancement of the bill. Senator Barrett, for what purpose do you arise?

SENATOR BARRETT: Mr. Speaker, I respectfully request the roll call be reversed.

SPEAKER MARVEL: Okay, go ahead, Mr. Clerk.

CLERK: (Roll call taken in reverse commenced.)

SENATOR WIITALA: I would just like to say I have no objections.

SPEAKER MARVEL: Okay, a roll call vote has been requested. Go ahead. Proceed with the roll call.

CLERK: (Roll call taken in reverse. See vote on page 1075,

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LB 428, 472A

for guardian selection is to a parent. The parent is deemed to be the most appropriate person to be the guardian of an incapacitated individual. Thus, if we are talking say, for example, about a 25 or 27 year old person who might be mentally retarded or mentally deficient, the guardian that the court is most likely to appoint is the parent, because the parent has the first crack, so to speak, at being the guardian for that individual.

SENATOR SIECK: Thank you, Vard. This assures me that the parent would have full responsibility as long as he lives, and I feel this is necessary, because a lot of parents prefer to have the guardianship in their control, but I also recognize that many of the parents are gone, or many of the parents even refuse to take care of their individual, then I feel that that individual should have a right to have a guardianship and that is where this bill comes about. And I wholeheartedly support the bill. Thank you.

PRESIDENT: All right, Senator Johnson, you may close then.

SENATOR V. JOHNSON: I do want to make just one slight corrective statement. I said the parent has the first crack, actually if it is an adult incapacitated person, his wife or her husband has the first crack and then if such a person isn't available then it would be the parent. But it is a sound bill. It is commensurate or in keeping with the movement that has been developing in the American Bar Association to more carefully tailor and limit the guardianship process. And again I move its advancement.

PRESIDENT: All right, the question then is the advance of LB 428 to E & R Initial. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 27 ayes, 0 nays on the motion to advance the bill, Mr. President.

PRESIDENT: The motion carries and LB 428 is advanced to E & R Initial. Mr. Clerk, do you have the 472A to follow 472 next?

CLERK: Yes, Mr. President, if I may, 472A is offered by Senator Hoagland. (Read title.)

PRESIDENT: The Chair recognizes Senator Hoagland on 472A to follow the other bill.

SENATOR HOAGLAND: I don't have that bill before me, Mr. Clerk. Could you tell us what the appropriated amount is for this?

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LB 99, 472A

CLERK: Senator, it is an A bill for 472 and the amount appropriated is \$13,150.

SENATOR HOAGLAND: And that all is to purchase liability insurance, to appropriate funds to the Department of Education to purchase liability insurance for the Commissioners, members of the Board and members of the Department of Education.

PRESIDENT: Any further discussion on LB 472A? If not, that will be the opening and closing. The question before the House is the advance of LB 472A. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 28 ayes, 0 nays on the motion to advance the A bill, Mr. President.

PRESIDENT: Motion carries and LB 472A is advanced to E & R Initial. Now if you will take your sheets, there has been some....you've got to keep up to date so you will know what is coming up. We are back on...those who had put their names on to delete 302 and 401 have taken their names off, so LB 302 and 401, both bills are back on. 302 and 401. 441, yes. 441, excuse me. 302 and 441. We also have inserted a new...or an additional bill after LB 310 on the first page, insert LB 267. 267 inserted after LB 310. I think that takes care of all the current additions and deletions. We are now ready for...going down into the second grouping with LB 99, commencing with LB 99 which was added. Mr. Clerk, do you want to read that bill?

CLERK: Yes, sir. Mr. President, LB 99 introduced by Senators Beutler and Hoagland. (Read title.) The bill was read on January 12 of this year. It was referred to Judiciary, Mr. President. The bill was advanced to General File. There are Judiciary Committee amendments.

PRESIDENT: The Chair recognizes Senator Nichol.

SENATOR NICHOL: Mr. President and members of the Legislature, this bill has to do with the increasing of various fees for Municipal Courts. The committee amendments essentially rewrote the dollar amounts for the increase of Municipal Court fees. In addition, upon the suggestion of the Chief Justice, the Judiciary Committee thought it necessary that if Municipal Courts were going to be increased, the County Courts which essentially have the same jurisdiction as Municipal Courts, should also have their fees increased. The committee amendments would not only set the dollar amounts for these fees, but would also keep County Court fees commensurate with Municipal Court fees. I should tell

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LR 76  
LB 12, 99, 228, 257, 361, 385,  
LB 561, 428, 451, 472, 472A, 501

SENATOR CLARK: Senator Cullan. The question has been called for. Do I see five hands? I don't see them. Now I do. All those wishing to cease debate will vote aye, opposed no. Have you all voted to cease debate?

CLERK: Senator Clark voting aye.

SENATOR CLARK: Record the vote.

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

SENATOR CLARK: Debate is ceased. Senator Wiitala, do you want to close?

SENATOR WIITALA: Mr. Speaker, members of the Legislature, in all due respect to my distinguished colleagues, Senator Warner and Senator Marsh, since the legislative intent has been placed in the record by their remarks as far as the responsibility to the duties of the Performance Review and Audit Committee, I would respectfully withdraw my amendment at this time. Thank you.

SENATOR CLARK: It is withdrawn. Do you have anything else on the bill?

CLERK: Mr. President, if I may read some matters in right before?

SENATOR CLARK: You go right ahead.

CLERK: Mr. President, a new resolution, LR 76 calling for a study offered by Senator Hoagland. (Read LR 76 as found on page 1724 of the Legislative Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and reviewed LB 12 and recommend that same be placed on Select File; 501 Select File; 472 Select File with amendments; 451 Select File with amendments; 428 Select File with amendments; 472A Select File; 99 Select File with amendments; 385 Select File with amendments; 361 Select File with amendments. 228 Select File. (See pages 1725-1726 of the Journal.)

And Senator Remmers would like to print amendments to LB 257, Mr. President. (See pages 1726-1727 of the Journal.)

Mr. President, the next motion I have on LR (sic) 561 is a motion by Senator Landis to reconsider the body's action in adopting the Kremer-Schmit amendment to LB 561.

SENATOR CLARK: Senator Landis.



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LB 472, 472A, 451

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

SPEAKER MARVEL: Do you want to move advancement of the bill?

SENATOR HOAGLAND: I move to advance the bill.

SPEAKER MARVEL: All those in favor of advancing 472 say aye. Opposed no. Motion carried. Now, Senator Hoagland, do you want to advance the A bill?

SENATOR HOAGLAND: Yes. I would move to advance the A bill, Mr. Speaker.

SPEAKER MARVEL: All in favor of that motion say aye. Opposed no. Senator Cullan. Motion is carried. The A bill is advanced.

CLERK: Mr. President, there are E & R amendments to LB 451.

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendments to LB 451.

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

CLERK: Mr. President, Senator Cullan has an amendment to the bill found on page 1683 of the Journal.

SPEAKER MARVEL: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Okay, Mr. President, this is a technical amendment brought to us by the Department of Health. As I understand it's a drafting error, this section of the bill is contained in one section and it should have been in there twice or something, but I guess this amendment and the next one are both technical and don't change the intent of the bill at all. The intent of the bill is to....I will go into that after the amendments are adopted.

SPEAKER MARVEL: The motion before the House is the adoption of the Cullan amendment number one. All those in favor of that motion vote aye, opposed vote no. Okay, record.

CLERK: 27 ayes, 0 nays on adoption of the Cullan amendment, Mr. President.

SPEAKER MARVEL: Okay, the motion is carried. The amendment is adopted. Now we are ready for amendment number two.

LB 3, 11, 12, 70, 95, 99, 228,  
250, 257, 266, 266A, 296A,  
310, 318, 328A, 369, 381, 384,  
389, 428, 441, 470, 472, 472A,  
497, 501, 506, 541, 543, 556A

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PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer by Chaplain Palmer.

REVEREND PALMER: Prayer offered.

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

CLERK: Quorum present, Mr. President, plus one.

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

CLERK: Mr. President, I have no corrections.

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

CLERK: Mr. President, I have an Attorney General's opinion addressed to Senator Chronister regarding compensation of rural water districts. That will be inserted in the Journal. (See pages 1899-1900 of the Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports that we have carefully examined engrossed LB 3 and find the same correctly engrossed. 11 correctly engrossed, 12 correctly engrossed, 70 correctly engrossed, 95 correctly engrossed, 99 correctly engrossed, 228 correctly engrossed, 250 correctly engrossed, 257 correctly engrossed, 266 correctly engrossed, 266A correctly engrossed, 296A correctly engrossed, 310 correctly engrossed, 328A correctly engrossed, 369 correctly engrossed, 381 correctly engrossed, 384 correctly engrossed, 389 correctly engrossed, 428 correctly engrossed, 441 correctly engrossed, 470 correctly engrossed, 472 correctly engrossed, 472A correctly engrossed, 497 correctly engrossed, 501 correctly engrossed, 506 correctly engrossed, 541 correctly engrossed, 543 correctly engrossed. Those are all signed by Senator Kilgarin as Chair.

Mr. President, a new A bill, LB 556A, offered by the Speaker at the request of the Governor. (Read as found on page 1904 of the Legislative Journal.)

Mr. President, Senator Vard Johnson would like to print amendments in the Journal to LB 428 and Senator DeCamp to LB 318. See pages 1904-1906 of the Legislative Journal.)

PRESIDENT: The Chair recognizes Speaker Marvel for an explanation of order of business today on the agenda. Speaker Marvel.

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LB 506, 506A, 472A

CLERK: (Record vote read. See page 2214, Legislative Journal.) 39 ayes, 6 nays, 3 excused and not voting, Mr. President, 1 present and not voting.

SPEAKER MARVEL: The bill is declared passed on Final Reading. The Clerk will now read LB 506A on Final Reading.

CLERK: (Read LB 506A on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass on Final Reading? Those in favor vote aye, opposed vote no. 506A. Record the vote.

CLERK: (Record vote read. See page 2215, Legislative Journal.) 40 ayes, 5 nays, 3 excused and not voting, 1 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. Senator Hoagland.

CLERK: Mr. President, with respect to 472, Senator Hoagland has a motion on 472A, to suspend Rule 4, Section 12, and withdraw the bill today.

SENATOR HOAGLAND: Mr. Speaker and colleagues, there is no need for the A bill on this matter in light of the fact that we passed the risk management bill yesterday. I think we should go ahead and pass the general authorization bill, 472, but in view of the fact we passed the risk management bill and the prospects are good that the Governor will sign that bill, there is no need to pass the A bill, so I would move to suspend the rules at this time and then move, simultaneously move to withdraw the A bill.

SPEAKER MARVEL: Okay, the motion is the suspension of the rules in order to withdraw 472A. Senator DeCamp. Senator Hoagland, Senator DeCamp has a question. Okay, we have a motion. What is your pleasure? Senator Carsten.

SENATOR CARSTEN: Mr. President, a question for information from the Chair. To withdraw a bill, you don't need to suspend the rules. Can't you do that by unanimous consent? It has to lay over if you move, right?

SPEAKER MARVEL: Suspending the rules rather than laying the bill over for a day otherwise 472 can't be considered. Okay, the motion before the House is the suspension of the rules. It requires 30 votes. All those in favor vote aye, opposed vote no. Record the vote.

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LB 472A, 389A, 472

CLERK: 34 ayes, 0 nays, Mr. President, on the motion to suspend and withdraw the bill.

SPEAKER MARVEL: Motion is carried. The Clerk will read on Final Reading LB 472.

CLERK: (Read LB 472 on Final Reading.)

SPEAKER MARVEL: All provisions of law having been complied with, the question is, shall the bill pass? Those in favor vote aye, opposed vote no. 472 on Final Reading. Record the vote.

CLERK: (Record vote read. See page 2216, Legislative Journal.) 47 ayes, 0 nays, 1 excused and not voting, 1 present and not voting, Mr. President.

SPEAKER MARVEL: The bill is declared passed on Final Reading. The next item of business on General File, no, I am sorry, item #5 on motions. The Chair recognizes Senator Wesely.

CLERK: Mr. President, Senator Wesely would move to return LB 389A to Select File for a specific amendment.

SENATOR WESELY: Mr. Speaker, members of the Legislature, with the amendment we just placed on 389 yesterday which put the delayed date back to July 1 of next year, there is no need for an appropriation to fund the services which are provided under that bill and so we are deleting that part of the A bill and we are also reducing the administrative costs involved from about \$27,000 down to \$15,000 and so the motion is to return and we will cut the A bill from two hundred and fifty-two thousand some dollars to about fifteen thousand dollars. I think you can all support that.

SPEAKER MARVEL: The motion is to return to Select File for the specific amendment. (Gavel) Can't hear up here. Senator Wesely, do you wish to speak to your motion?

SENATOR WESELY: I already did.

SPEAKER MARVEL: All right. The motion is the return of the bill as shown on item #5 under motions.

CLERK: 30 ayes, 0 nays on the motion to return the bill, Mr. President.

SPEAKER MARVEL: The bill is returned. Now the motion is to adopt the specific amendment. Those in favor of the amendment as explained by Senator Wesely vote aye, opposed vote no.

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LB 472A

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

SENATOR KOCH: For the purpose of requesting of...is Senator Marvel here or has he left?

SENATOR CLARK: I don't know where he is, Senator Koch.

SENATOR KOCH: Well, Mr. Chairman, a moment ago I spoke to him and I asked if it was appropriate the motion I have pending up there to consider before we get into this agenda item. He told me that it would be appropriate at that time to consider.

SENATOR CLARK: Well, I really don't know anything about it, Senator Koch. He didn't tell me about it. There is nothing on the desk.

SENATOR KOCH: Well, I...

SENATOR CLARK: Is there anything on the desk? Did you want to take it up now? The Clerk says he has a motion to reconsider 472A.

SENATOR KOCH: That is correct.

SENATOR CLARK: Is that what you are talking about?

SENATOR KOCH: Yes.

SENATOR CLARK: All right, let's take it up. Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, I would point out that the motion to reconsider has not been set on the agenda and that it would only be appropriate and fair to members of the body that we had come out with the green sheet agenda with the motion on there to reconsider. Now occasionally on veto overrides we have done this but on a completely new matter like this it would seem to me appropriate, as Senator Hefner has often mentioned, that the item be mentioned on the green sheet so that we are forewarned appropriately that the matter is to be discussed.

SENATOR CLARK: Here comes Senator Marvel now. We will let him discuss it.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Chambers, for what purpose do you rise?

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LB 472A

SENATOR CHAMBERS: To be fair, even though I don't like what they are about to do, the rule does say that a motion to reconsider can be made or should be made on the day the question was decided and that a motion to reconsider takes priority over every other motion except one to adjourn. So whether it is on the agenda or not, it would seem to me that the motion could be made.

SPEAKER MARVEL: What page of the rule book is that?

SENATOR CHAMBERS: Page 49, Rule 7, Section 7 (b).

SPEAKER MARVEL: Section 7 (d) or (b)?

SENATOR CHAMBERS: (b) as in...

SPEAKER MARVEL: (b)?

SENATOR CHAMBERS: ...bible.

SPEAKER MARVEL: Baker, (b) as in baker.

SENATOR CHAMBERS: Okay.

SPEAKER MARVEL: Okay, now what is the question before the House? Okay, the Chair is ready. (Gavel) Senator Beutler, Senator Beutler, do you have a challenge?

SENATOR BEUTLER: Mr. Speaker.

SPEAKER MARVEL: Yes, sir.

SENATOR BEUTLER: I am simply questioning the purposes of reconsideration in this case. The legitimate purpose of reconsideration is to reconsider the original motion which in this case I take it was Senator Hoagland's motion to withdraw and Senator Hoagland has stated that the motion to withdraw the bill is because the bill is no longer needed. So I submit to you, Mr. Speaker, that it is perfectly ridiculous for us to consider a motion to reconsider a bill which the introducer has acknowledged to be no longer necessary. What are we reconsidering, Mr. Speaker? For what purpose are we reconsidering?

SPEAKER MARVEL: Senator Beutler, the issue before the House, as the Chair sees it at least, is that we are reconsidering the withdrawal of LB 472A which was on your agenda earlier today.

SENATOR BEUTLER: Mr. Speaker, I am asking that the Speaker

look through the form of the matter and to the substance of the matter and to take his prerogative to declare that the motion for reconsideration is not appropriate. This is akin to what we often see in the law where we ask the courts to look through the form of the matter and look to the substance of the matter and make a decision based on the substance of the matter. This is not a real motion to reconsider because nobody in this Legislature wants to reconsider 472A with regard to the substance matter in that bill and so, therefore, I am saying that this is not a motion to reconsider as outlined in our rules even though they are calling it a motion to reconsider. They are using the words "motion to reconsider" but it is not in fact a motion to reconsider and there is no such motion as what they are proposing and, therefore, I ask the Chair to rule it out of order.

SPEAKER MARVEL: The Chair is going to take some liberty here, and since there are several whose lights are on, listen to at least some of those, hopefully all of them, to create a little background, and then I will proceed from there. Who is the first one? Senator DeCamp. I would ask everyone who is called upon to speak to speak to the issue as presented by Senator Beutler. Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, everything Senator Beutler says is absolutely correct. Everything he says is correct in terms of what may really be in the heads of everybody that might vote for this but we are following the rules. We are following the form. Now what our real intentions are in here is a subjective thing up until the time that bill is reconsidered and alive. Sure, I am playing games with you, technical points, the same thing Chris uses when he raises the rules, and, sure, maybe there are ulterior purposes for raising whatever the number of this A bill is. Strictly speaking according to the rules, the motion is up there. It is a motion to reconsider, and what you ultimately decide to do with it if you should reconsider it, in your own heads, in your own mind, that is up to you and there is nothing in the rules that says the Speaker is put on the spot of going into the internal substance of what we are really up to. We are following the form and that is about it.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I think we are all a little ticked off about this because here we go again on 318, the religious school bill, unless I misunderstand things as to what is happening. We have put the thing to rest a couple of times. Now we get down to

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LB 472A

the crunch here and we keep bringing this dog up again and again. Thank you.

SPEAKER MARVEL: Senator Newell, then Senator Chambers.

SENATOR NEWELL: Mr. President, members of the Legislature, you know I have never tried these extensive maneuvers and, if this works, I try to talk a bill to death but I mean I have never tried any of this fancy dance and question of appropriateness and all those kinds of things but I think the Speaker and the Legislature has to consider for a moment the efficacy of this whole process. Now we have talked about germaneness a couple of times on this issue and I don't think germaneness has really been as key to the issue. It is all a question of has it had a public hearing? Is there a bill? Are we reconsidering anything that has been before this Legislature? Is the issue relative or relevant? Well, all those answers are absolutely "no", that the issue has not been before this Legislature either as a bill or in any other way. It has not been heard by a public hearing this year. There has not been any question of this whole issue before the Legislature until the final hours, after a Supreme Court decision, and then there has been numerous attempts to try to attach this amendment to a number of different things. Mr. President, I am going to ask you if this gets adopted, (a) whether it is germane; (b) whether it ought to be automatically referred for a public hearing; (c) a number of other questions, because I think they are all very relevant to this whole procedure. Now Senator DeCamp said, "Well, you know, you have to look at the issue as it is, not what is in our minds", except he made it very clear what is in his mind and I don't think we have to question that at all. This is highly questionable. It is not the kind of practice this Legislature wants to establish as, in fact, the rules of the Legislature, and if it does, I think we ought to consider it just exactly that, that he who has got 25 or in some cases 30 votes can do anything they want at any time at any stage of the process. Now I ask this Legislature, many of them who may agree or may not agree with this amendment, whether that is the kind of legislative process and the legislative process that the people of the State of Nebraska can understand, and if we continue to do this kind of game playing, will the rule book mean anything or does the rule book mean anything now? I think the answer is very clear. If this is done, the rule book does not mean anything and I think we ought not even have it to be played with like we have been playing with it in recent months.

SPEAKER MARVEL: Senator Chambers and then Senator Koch.



SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, to be in the spirit of the discussion, the rule book is the Bible of the Legislature. You know that the Bible is considered a supermarket. You go through and pick out what you want and you reject what you don't want and that is why so many confusions and wars are fought over the Bible although it is supposed to be divinely inspired and absolutely accurate. Now no claim of infallibility is made for the rules, but the rules are here and the rule says, "Every motion to reconsider shall take preference over all other questions except a motion to adjourn, and any issue which has been decided by the Legislature is a fit subject for reconsideration." Now Senator Beutler is a clear, logical and orderly thinker, and as he was talking about his argument, I am sure that he almost saw that he defeated himself because he made a reference to the law in terms of looking through the form to the substance. Well, Senator Beutler knows that there are steps that you take when you are cross-examining a witness and you cannot object to a question...to an answer that a witness gives until he gets ready to give the answer. So all we are dealing with is whether or not reconsideration is allowed. Under the rules it is. That is a legitimate issue and a vote can be taken. Now after the reconsideration is attempted, if the vote is aye, and then something is attempted to be done with the bill which is felt improper, then you argue that what is being attempted with this bill is not proper, but to do the rule, do violence to the rule which is being suggested by some of the members here today reminds me of what I saw in a picture called "Judge Roy Beam". This was a criminal cowboy who took over a town. He built the town and he was the final law. So as the town built up and new influences came to play, a young lawyer came to town and he wanted some land for a certain purpose and he told Judge Roy Beam that the law allowed him to take the land for this purpose and Judge Roy Beam said, "Where is that in the law?" So the young lawyer produced a law book, showed it to Judge Roy Beam and Judge Roy Beam acted like a member of this Legislature. He took the page that the material was on, tore it out of the book and said, "That is bad law". So there was no more law. We shouldn't do that here. I don't like the amendment but, nevertheless, the rule does allow a reconsideration and I think we ought to allow the motion to be voted on, up or down, and here is what the members who are opposed to it can do, take solace in the fact that the rule also says, "If the Legislature shall refuse to reconsider or upon reconsideration shall affirm its first decision, no further motion to reconsider shall be in order unless by unanimous consent." And I think what some of you can argue is that what all of these things are in dealing with

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this church amendment is a reconsideration of the church amendment, and that having been attempted before and rejected, there should be no other attempts to reconsider the church amendment unless there is unanimous consent. But we haven't gotten to that yet, we are on 472 and I think that motion is valid. I won't vote for it though.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: I move the previous question.

SPEAKER MARVEL: Before I respond to that, it is in order, the reconsideration motion is in order. That is the first statement. Now who has another question? Senator Haberman.

SENATOR HABERMAN: Yes, I am sorry that you made that ruling, Mr. President, because I was going to ask you to look at the substance of the bill. The substance of the bill is a financial A bill. Therefore, there is no need to reconsider.

SPEAKER MARVEL: No, I haven't been asked to rule on that. Therefore, as Senator Chambers indicated, we aren't ruling on it. I am ruling on that portion that I have the authority to rule on. Now if you want me to proceed with the religious... discussion of the religious part of 318 as amended here a few days ago, that is another matter. This is the first time we have had utter stillness today. Senator DeCamp, we are talking about reconsideration of 472A, and the withdrawal thereof. Now, Senator Koch, do you have a comment? The floor is yours.

SENATOR KOCH: Well, the motion is to reconsider and I call the question on it, particularly since you have ruled this reconsideration is appropriate. Any other discussion right now is not germane at all. They are only making assumptions.

SPEAKER MARVEL: Senator Beutler.

SENATOR BEUTLER: As I understand the prior discussion, Mr. Speaker, you offered to allow people to comment as to what decision you should make on the ruling on the motion of reconsideration and you have made your decision and now I assume the debate is on the motion to reconsider and I assume that some of us will have a chance to speak before the question is called.

SPEAKER MARVEL: The fact of the matter is you can speak right now if you want to.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I would just ask Senator Hoagland, who is the introducer of 472A, if you have been asked to reconsider it, if you have been taken into account on this decision, whether there is anything in 472A that should be reconsidered, if there is any reason to reconsider it? Could you reiterate why you asked it to be withdrawn and state whether or not there is any necessity for the bill whatsoever at this point in time?

SENATOR HOAGLAND: Mr. Speaker and colleagues, in response to Senator Beutler's question, I have been informed that an attempt would be made to use this bill, which has been withdrawn by this body and which I was a sponsor of before it was withdrawn, as a vehicle for this. I have not consented to it, not that that is relevant. Now the reason we withdrew this bill is because when this Legislature yesterday passed the risk management bill, which we are assuming the Governor will sign, it obviated the necessity of 472A. 472A became unneeded and that is why I asked the body this morning to suspend the rules and permit the bill be withdrawn all at the same time, which we did by a vote of 34 to nothing. Does that answer your question, Senator Beutler?

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I think we should at least...it seems to me that there are two things that make a lot of sense with regard to denying this motion to reconsider. In the first place, there is nothing to reconsider. The bill is completely not needed. And, secondly, at least to date in this body, I think we have generally respected the wishes of the introducer and not put extraneous amendments on bills that are going to carry somebody's name unless they approve of that. So I would ask you to consider those two things.

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. President, members, I just rise to remind you of the rule change that I offered this body yesterday afternoon. I pointed out to you a little over twenty-four hours ago that reconsideration motions on bills that have once got to Final Reading in the last five days of this session were just going to take up a lot of time. We were going to wind up with four stages of debate instead of three and that I, personally, was not going to vote for any reconsideration motions, even though there were some bills that were on reconsideration, that had reconsiderations piled on them that I was personally in favor of, and there was one bill that we had already passed that I would have liked to have got back and left back. I just think we

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are bending our rules, we are getting into a situation where we are clear over on Final Reading, the last four days, and reconsideration motions, in general, are not good. I reminded this body of it yesterday. You, in your wisdom, decided that that was not right and that reconsiderations was good. I assume that is what we are going to continue doing. But in light of all that, I want you to understand that I am not going to vote for a reconsideration motion at this time even though I probably will vote for the amendment if we ever get to it.

SPEAKER MARVEL: Senator Koch. Okay, Senator Koch, do you want to close on your motion?

SENATOR KOCH: The motion is to reconsider the action on 472 and any other discussion we have had, Mr. Speaker, once you ruled that it was appropriate, that is what the discussion should be, and it is up to this body to make a determination. Are we going to reconsider and do we have the votes to reconsider? From then on, then whatever destiny this bill has, that is another subject and that is another question. So I move we vote on reconsideration.

SPEAKER MARVEL: Okay, the motion is to reconsider the withdrawal of 472A. All those in favor of that motion vote aye, opposed vote no. It takes 25 votes. Have you all voted? Record the vote.

CLERK: 27 ayes, 10 nays, Mr. President, on the motion to reconsider.

SPEAKER MARVEL: Okay, motion is carried.

CLERK: Mr. President, the next motion I then have is offered by Senator DeCamp and Koch and that would be to suspend all rules to allow consideration of amendment, which is Request #2463, to LB 472A. Mr. President, the motion again is to suspend all of the rules to allow consideration of an amendment to LB 472A. The amendment would be Request #2463. That is offered by Senators DeCamp and Koch.

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

SENATOR CHAMBERS: (Mike not turned on.) Mr. Chairman, again for clarification. Does the motion say to suspend all rules?

CLERK: (Mike not turned on.) It does.

SENATOR CHAMBERS: (Mike not turned on.) That means suspend every rule in the book, period?

CLERK: (Mike not turned on.) Mmm Hmm.

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SENATOR CHAMBERS: (Mike not turned on.) What will it take to adopt the amendment? A majority of whoever votes, because if all the rules are suspended, there is not even a basis for adding an amendment or doing anything with this bill? We are operating without rules.

SPEAKER MARVEL: No, not yet we aren't. Whose motion was that? Who is the person who introduced...Senator DeCamp, do you want to explain the motion?

SENATOR DeCAMP: Mr. President and members of the Legislature, let there be no deception. Let there be no kidding anybody. We want to use an A bill, a vehicle on Final Reading, so that the Christian school issue could be addressed. We realize that that is a suspension of the rules. That goes contrary to the legislative process in its orderly manner. We admit and acknowledge it is not germane and the burden is then upon us to get thirty votes because we are doing an unusual procedure. Now is there precedent? Not only is there precedent, the same thing was done with an A bill, I think the A bill belonged to Senator Dworak in 1977. I have a specific Attorney General's opinion that says it was constitutional to do it. I think Ernie is familiar with that. It became a big issue at the time. He said that an A bill was the same as any other bill. It's a bill and what you put into it and what the Legislature approves is it. We are following that process and we are acknowledging it is not germane, suspension of the rules necessary, super majority of thirty votes, taking things out of order, we are acknowledging all of that. The only real question, the only real issue is whether the Legislature itself, because of the particular circumstances of this particular case, want to say, "Look, we think something needs to be done before January and what we are offering, quite frankly, is only a one year solution so that when the Legislature comes back in January and the Education Committee has worked on it in the summer, they hopefully will have a better or more workable solution." But we are saying, with the recent developments of the filings against the Mennonite Schools, I think that occurred yesterday, to close them down, that have been operating for, I don't know how many years, pardon? They were Mennonite or Amish, whatever it is. Anyway, all we are trying to do is offer a temporary solution, and if thirty members of the Legislature think, indeed, we are going to take things out of order, we are going to give the benefit of the doubt, we are going to waive a few things, a few rules, then we will do it. If not, then it won't be done. And to make a big issue, a big debate over whether we are bending the rules, we are absolutely following the rules in this respect. The rules say you can

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suspend the rules. It sets up a procedure. We are following the procedure outlined in the rules to suspend the rules. The rules set up the system and that is what we are following.

SPEAKER MARVEL: Senator Beutler, your light is on.

SENATOR BEUTLER: Are we speaking now to Senator Chambers' point, Mr. Speaker?

SPEAKER MARVEL: Senator Beutler, you asked me a question and I said that for the first time during the session the mike was off. I am saying, in effect, that the motion as I understand it is to suspend all the rules. That is what we are talking about.

SENATOR BEUTLER: As a point of clarification, Mr. Speaker, and what has Senator Chambers asked the Speaker, that it is an improper motion or....I am not sure what the question is? Maybe Senator Chambers can clarify it.

SPEAKER MARVEL: I think the question is to be clarified by those who posed the motion.

SENATOR BEUTLER: Then I await for their clarification, Mr. Speaker, thank you.

SENATOR CLARK PRESIDING

SENATOR CLARK: Senator Koch, do you want to clarify the motion? Your motion was to suspend all the rules.

SENATOR KOCH: That is correct and that is exactly what we did when we considered the same kind of a situation on Senator Dworak's A bill a couple of years ago. The same procedure is being followed.

SENATOR CLARK: Senator Beutler. It was in 1977 and 1978 this was done. I don't recall it but it was done, supposedly, the Clerk said. Do you want to comment on it?

SENATOR BEUTLER: No, Mr. Speaker, I would just reiterate what Senator Chambers has already said. I think it is quite clear. Thank you.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President, a point of order.

SENATOR CLARK: What is your point?

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SENATOR HABERMAN: I would like to question the germaneness.

SENATOR CLARK: Of what?

SENATOR HABERMAN: Okay, I will wait. We are on...I have to wait until this motion is either up or down, right?

SENATOR CLARK: Right.

SENATOR HABERMAN: I will wait.

SENATOR CLARK: The motion is in order. I would rule the motion is in order to take it up. As far as the contents of what they are going to put in the bill, I haven't any idea. That is not the question before the House. The question before the House is suspension of all the rules in order to reconsider 472A. Now does any one want to talk on that? Senator Carsten.

SENATOR CARSTEN: Mr. President and members of the Legislature, it would appear to me that if we have to suspend all of our rules to proceed with a specific piece of material, then we shouldn't have had the rules clear from the beginning, and I would like to ask Senator Koch if we have to suspend all the rules in order to do what he is going to attempt to do, and if so, why? Surely there are specific rules that could be suspended, not all.

SENATOR CLARK: Senator Newell. Pardon me, go ahead.

SENATOR CARSTEN: No, no, I asked Senator Koch a question, if I may, Mr. Speaker.

SENATOR CLARK: You may. Go right ahead, I am sorry.

SENATOR CARSTEN: Senator Koch.

SENATOR KOCH: Senator Carsten, right now we are going to cite some specific rule and the germaneness.

SENATOR CARSTEN: Okay. Thank you.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Mr. President, I had a similar question as Senator Carsten and Senator Koch said he is going to cite the specific rule and, Senator Koch, if you could...I still have another question, Senator Koch. Mr. President, as soon as we find out what that specific rule they are citing is and how specific that really is and for how long that intends to last, I may not have near the objections that I may have

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otherwise. So I would rather not talk at this point and wait to find out exactly what they are proposing.

SENATOR CLARK: We are not speaking about their proposal, Senator Newell, only speaking about the reconsideration of the bill.

SENATOR NEWELL: Yes, well, at this point in time, the way it is presently written, unless they specify the rules and for how long a time they intend to suspend them, then I am not only definitely but violently opposed to that. Maybe not violently but certainly with great conviction, let me put it that way.

SENATOR CLARK: Senator Vickers, for what do you wave your hand?

SENATOR VICKERS: Senator Clark, did I understand you to say that we are not speaking to anything except the reconsideration? We have already voted on the reconsideration. We are speaking to the motion to suspend the rules, are we not?

SENATOR CLARK: Yes, I am sorry. You are right. It is a little confusing up here. You are right, though. We are voting on the suspension of the rules at the present time, but at the present time, it is all of the rules. They are looking up a specific rule. Senator Chambers, for what purpose do you arise?

SENATOR CHAMBERS: Mr. Chairman, I have a motion on the desk, and so that it is correct, I would like the Clerk to read it.

CLERK: Mr. President, Senator Chambers would move that we adjourn until Tuesday morning, May 26 at 9:30 a.m.

SENATOR CLARK: That is not a debatable motion. I must put the question to the House. All those in favor of adjourning until Tuesday morning at 9:30 will vote aye and those opposed will vote no. Record the vote.

CLERK: 5 ayes, 24 nays, Mr. President, to adjourn.

SENATOR CLARK: We are not adjourned. Senator Beutler, you were next.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I am going to stop talking technicalities for a minute and let me tell you why everything you are doing here I think is futile and unconstitutional. First of all, let me preface that by pointing out to you that now you are in the process of putting a whole new subject matter on a bill that is on



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Final Reading and this is unprecedented in terms of what the proponents of this measure have tried to do so far. So far, at least they have tried to do it on Select File where there is a chance to really look at the amendment and try to amend it and get it into some kind of shape before we pass it into law. But now we are asking to amend something on Final Reading. There is going to be one shot at it. They will have to be individual shots to return for specific amendment, very, very poor legislative process, to say the least. But that is not the main point I want to make. The main point that I want to make is to read a part of Section 14 of the Constitution of the State of Nebraska to you. "No vote upon the passage of any bill shall be taken, however, until five legislative days after its introduction or until it has been on file for final reading and passage for at least one legislative day. No vote upon the final passage of any bill shall have been taken until five legislative days after its introduction." It is my firm opinion that if you gut 472 and ~~it is an entirely new bill~~, it will not have been in the legislative process for five days and it is, therefore, unconstitutional. So not only are you flagrantly violating the process of the Legislature, but you are also flagrantly violating the Constitution of the State of Nebraska and I think that is all there is to it.

SENATOR CLARK: Senator Kremer and then Senator Marsh.

SENATOR KREMER: Mr. President and members of the Legislature, I don't think any of us like what is going on, the method that we are using, and we very seldom use it. We have in the past. I think we ought to be thinking, what we ought to be thinking about is the objective. Why is it necessary to follow the route that we are following now? We are making a hard choice. Unless something gets done, I think all of us in Nebraska are aware we are heading for a very sticky situation. Now if we can just waylay that for a little while, the Education Committee or whatever committee will have a look at this whole situation and I think this Legislature will then have the opportunity to do that which is best and which is right, whatever it may be. So I am talking about the objective that we are trying to accomplish, not the way we are getting there. We are operating improper, good or bad, precedence or no precedence. We are just going to have to lay some of those things aside and say, what is our objective here and what is the best for this state and all the people involved in this issue that is difficult? Therefore, I speak in support of what we are trying to do. It may not be the best route but I see no other alternative. Thank you.

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SENATOR CLARK: Senator Marsh.

SENATOR MARSH: Mr. Chairman and members of the Legislature, it seems to me that when we took the oath of office, we as individuals promised to uphold the Constitution of the United States and the Constitution of the State of Nebraska. Senator Beutler pointed out that even if this were introduced today, there are not sufficient days remaining in this legislative session to make this a constitutional bill. I cannot imagine that a group of persons who call themselves a religious body would ask you to do something which is, in fact, unconstitutional. The group of persons who have requested the action which some of you are trying to take are a group who say they are a religious group. In no way can I believe they would want this body to go on record as doing something which the body is aware is unconstitutional by the State Constitution of the State of Nebraska, for each one of us took that oath when we accepted the responsibility of serving in this legislative body. In no way could I vote to suspend any rules when the ultimate objective is to do something which is unconstitutional. I urge you to consider carefully your vote and not cast your vote for the emotion of the topic but to do your responsible action thing which is to uphold our Constitution. Try by rule and legislation and vote to change the Constitution if you do not like it but do not ignore the Constitution of our state which is here for our safety and the safety of all of the persons who live within our state. This is not something to be taken lightly and I know that Senator Kremer took his oath of office and did not really mean that we should pass this any way, notwithstanding what our Constitution says.

SENATOR CLARK: The Clerk informs me that there are five days left, today and four additional days. I am just making that as a point of clarification. Senator Wesely.

SENATOR WESELY: Thank you, Mr. President, members of the Legislature, I also rise to oppose this attempt to gut this bill and to put the issue before us before we have had a chance to, I think, look at it very carefully and also because of the constitutional question Senator Beutler raised. I kind of resent the situation we are placed in. We understand the problems they have. The court case have caught them by surprise but they have taken up an awful lot of our time this session. This is the third or maybe the fourth time this has come up. We argue, we debate, we take time. We have four days left with bills we spent a lot of time with already and yet, yet, they are back again and my question is this. It seems to me that the decision came down. It was

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an inopportune time. It was a tough time for everybody. There is not a bill really to deal with it. I know that they have to deal with it quickly. Well, it seems to me that there is two choices. I mean they could adjust and then come back next session or they are asking the entire State of Nebraska to adjust to meet their particular problem. It is almost Mohammed and the mountain. Mohammed doesn't seem to want to come to the mountain and so the mountain is supposed to come to Mohammed and I am not sure that is really the situation we ought to be placed in. I think it is quite possible that they can make some adjustments and try to meet the law and wait for the normal legislative process through next session to deal with the problem. I think that is the logical solution to the problem. I don't understand why they feel that they have to be the martyr, why they have to be drug off to jail, why they have to do the certain things that they seem to want to do if we don't do some changes this session, and I think, quite frankly, we are all I think falling in disfavor across this state because of these attempts to gut bills and deal with issues in a haphazard manner and our image is hurt by it, when in fact those people out in the lobby should be making the adjustments, not us, and I think we can deal with the issue in due time next session, don't need to take more time this session, and we can deal with it in a more rational way on that basis. So I would oppose any further attempts to gut this bill and ask your support for that position.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Speaker, I move the previous question.

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

CLERK: Senator Clark voting yes.

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

CLERK: 25 ayes, 4 nays to cease debate, Mr. President.

SENATOR CLARK: Debate has ceased. Senator Koch, do you want to close?

SENATOR KOCH: Mr. Chairman, members of the body, Senator DeCamp and I will share the closing. I would remind you, Senator Warner just brought it up over here, that not too long ago we were dealing with an issue that was very critical but, it was a substance that is usually used to bring

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about some kind of enjoyment. It is called "beer". I suggest to you that if we can do that kind of thing, that we can take on a critical issue which deals with education, with some religious flavor to it. So I think it is important. Not only that, this bill is important to the State of Nebraska. I am telling you why. I am not going to be guilty as an individual, even though my feelings somewhat are not totally in sympathy with the group that want to run their schools with very little supervision, but I think it is imperative that this body since the court has said very clearly the only place you can resolve this issue is in the Legislature, and that is where they are trying to get it resolved, and I think we, as individuals, contrary to what your belief may be right now, should allow this Legislature the opportunity to deal with it in an interim study which will be done with great depth and come back here in January and offer a piece of legislation that can satisfy I think education and those who have certain religious tenets. I am surprised at Senator Beutler digging in the book talking about constitutionality. That is not that issue. We have four days left. This is the five day here and we tried this message last on the 17th of May and so it is not new. The subject has been here. And so with that, I would ask that you allow us to proceed in the interest, I think, of the State of Nebraska and individuals and all of us and I would now give the rest of my time to Senator DeCamp.

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

SENATOR NEWELL: Mr. President.

SENATOR CLARK: State your point.

SENATOR NEWELL: Mr. President, I asked earlier if we were suspending all of the rules or some of the rules or what specific rules. I have been informed by the Clerk that there has not been a motion or a request to substitute. I am asking the sponsors of this proposal, Senator Koch and Senator DeCamp, whether or not they are intending to suspend all rules as this presently did or whether they are going to substitute their specific motion and then what is that specific motion?

SENATOR CLARK: I think I will ask Senator DeCamp that because I think he has one up here.

SENATOR DeCAMP: Senator Koch and I put this other motion up. You were getting picky about which rules. So we identified the specific rules and they are...maybe Pat could read them.

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CLERK: Mr. President, Senators DeCamp and Koch would move:  
(Read Koch and DeCamp substituted motion found on page 2237,  
Legislative Journal.)

SENATOR CLARK: Senator DeCamp can explain those first. Pardon.

SENATOR NEWELL: Mr. President, the point of order I stood  
up for, is it their intent to substitute or withdraw the  
previous motion?

SENATOR CLARK: To substitute. Senator DeCamp, do you  
want to explain it?

SENATOR DeCAMP: You wanted a clarification of the specifi-  
city or whatever the word is so what we are doing is just  
substituting. Is that okay? Can we finish the closing now?

SENATOR CLARK: That is right. If I can get you one at a  
time I could probably understand you a little better.  
Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, can you hear me now? If  
you look at Rule 5, 2 (b), the wording in that rule is really  
Article III, Section 13 of the Constitution and I think we  
would hold ourselves up to ridicule and scorn if we think  
by a vote on this floor we can amend the Constitution.  
This rule merely tracks the language of the Constitution  
which says that bills cannot contain more than one subject,  
it has to be contained in the title, the section of statute  
amended has to be repealed and so forth. Now you can vote  
it if you want to, but the reason I had asked to adjourn was  
because I knew a travesty like this will result. You can  
vote to suspend it but you cannot suspend the Constitution.  
Maybe you think you can, but as a matter of fact and as a  
matter of law, you cannot.

SENATOR CLARK: Senator DeCamp, did you want to respond to  
that? The substitute motion.

SENATOR DeCAMP: Yes. I see no problem. Ernie is talking  
about the Constitution. We are not proclaiming to suspend  
that or anything else. It is strictly the rules, the same  
procedure that has been used repeatedly in the past. If  
it is so unconstitutional, they should be happy. They have  
got the solution to their problem. Let us make fools of  
ourselves and pass this unconstitutional legislation, the  
same as we did the bankruptcy laws which somehow seem to be  
constitutional, the same as we did in previous years. If  
you people had taken the time to do your research, and Ernie  
knows this because he has been around here long enough, I  
can see Chris wouldn't know it, maybe not Shirley, but Ernie

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remembers, the Attorney General and the courts have issued rulings on what the five day means. It doesn't mean it has to be here, it means before the body, it means in the form of in the Journal, it means ever having been in the form of anything. It has been here for almost the whole session according to the standards that have been ruled on in the courts and the Constitution, so the five days, if you think that is unconstitutional, we are happy. Go along with us, let us make fools of ourselves because we think we are pretty safe on that aspect, and as I say, repeated cases, repeated. The best one was when you all voted for it, except for Chris, I don't think he did, the bankruptcy law a couple of years ago. The same issue, it was less than five days, but it had been before the body in the form of a bill. The Attorney General said that is adequate. The courts have upheld it on it. A bills, the same thing, we have used A bills and used them for bills. He said a bill is a bill is a bill and so I feel we are following a procedure that has been followed in the past. It is completely satisfactory. You may not like it. You may disagree with our goal and all that but I think we are constitutionally sound and all we are asking is a shot at the issue.

SENATOR CLARK: Senator Landis and then Senator Haberman. What is the point of order, Senator Haberman.

SENATOR HABERMAN: A point of order, Mr. President, if you please, sir.

SENATOR CLARK: Will you state your point?

SENATOR HABERMAN: Senator Koch was closing on his motion.

SENATOR CLARK: And I ruled this is a substitute motion. That is debatable.

SENATOR HABERMAN: And then he yielded the rest of his time.

SENATOR CLARK: I ruled it was a substitute motion.

SENATOR HABERMAN: So now what are we talking about please?

SENATOR CLARK: We are talking about the substitute motion on the specific rules that he wanted to suspend. Instead of suspending all of the rules, it will be just the specific rules that he mentioned in there.

SENATOR HABERMAN: Would you please ask the Clerk to repeat them again slowly so we can each find out what we are doing?

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SENATOR CLARK: I will. Mr. Clerk, will you repeat it please. Repeat the substitute motion.

CLERK: Mr. President, the substitute motion would read as follows: (Read.)

SENATOR CLARK: Senator Landis.

SENATOR LANDIS: Thank you, Mr. Speaker. As I understand, I am operating now as a debater on the issue of the substitute motion and I am in order and there has been no closing on the substitute motion.

SENATOR CLARK: That is right.

SENATOR LANDIS: Thank you, Mr. Speaker. Members of the body, Mr. President, I rise to oppose the substitute amendment to suspend the rules and I want to talk just for a moment on something other than constitutional grounds. The Legislature is to be a deliberative body. It is to write policy. It is to write that policy in the scrutiny of the public with a chance for public reaction. We are to translate the public will into law, and we are to do that not only the view of the public but also to adhere to a process that is open for their reaction and their testimony and the gathering of facts and information and opinions from the public. The language which is being offered to LB 472 was offered to this body today. It is the first time we have seen it. This is not the same language we talked about yesterday and the day before. This is new language. If it is adopted today, it is quite likely it will go to E & R, and over a long weekend, it could be back here and voted on Tuesday morning on Final Reading. And so on Friday afternoon at 3:52 we could adopt an amendment which would then be voted on the first thing Tuesday morning and that is the deliberative process that we are being asked to pass on with this motion. I object to that. Now I don't object to it in a constitutional way. I don't object to it on the basis of some specific rule that justifies my stand. I object to it on the basis that it is not good policy to act this way. We don't look good and I am glad Cable TV is here today and ETV is watching us because I don't think when we collapsed the two House system into one House and we created a three step process of General File, Select File and Final Reading to replace the slow deliberative process of a House of Representatives and a Senate that we do justice to George Norris or the founders of the Unicameral when we take in one afternoon language, put it in a bill, and the next day vote on it and turn it into law. That is not deliberative lawmaking. That is not wise public policy

and that is not why the Unicameral was created. Those three processes are unlike any other process in the rest of United States because we have one house and we are ourselves acting as lawmakers. We have those three processes to spread the time out, to let us get letters from home, to let us have the public aware of what we do, to take them into our confidence and to give them the opportunity to react to the policy choices that we are considering. We today are expected to collapse those three processes into one day Final Reading and vote it on Tuesday morning. Now that is taking the Unicameral system too far. I don't think that anybody should be proud of that and if I were not as respectful as I am for a man with as much experience and tenacity and knowledge as Senator Kremer, I would say for shame. Do not say and accept this philosophy that we have to look at the objective. That is another way of saying that the end justifies the means, and what are the means? The means are ignoring public hearings, the means are breaking our rules, the means are ignoring the Constitution and the means are repealing laws in one afternoon in order to accommodate an act of civil disobedience. Now that is what we are talking about here. I understand that we don't want a sticky situation but what is that sticky situation? It is a man willfully and knowingly breaking laws that this body passed. Now maybe those laws are wrong, and maybe they should be changed but they should be changed deliberately. They should be based on evidence and testimony and study, not on an afternoons whim and not on some chicanery of the rules. I don't think that this body does itself proud on a Friday afternoon to pass a bill, because that is what we are talking about, a new bill on Friday. . . .

SENATOR CLARK: You have about thirty seconds left.

SENATOR LANDIS: . . . today, and vote on it Tuesday morning and think that we have done the people of this state proud and to think that we have done them well by the process that they handed to us when they gave us the Unicameral.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, I had a minister of the Berean Fundamental Church of my district call me and he said that he was disappointed in the way some people are conducting themselves in reference to private schools. He was trying to tell me in a nice way that he personally, and his feelings were that this was no way to accomplish their means. So, I'm sure that he would feel the same way and so would and should other ministers if we are asked to override the Constitution of the State of



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Nebraska. Thank you very much, Mr. President. Mr. President, I would like to yield the rest of my time to Chris Beutler.

SENATOR CLARK: All right. Do you have a point of order?

SENATOR STONEY: I would have a question.

SENATOR CLARK: All right.

SENATOR STONEY: It is my understanding that the issue we are debating now is the suspension of the rules.

SENATOR CLARK: The suspension of the rules, the ones...the substituted motion.

SENATOR STONEY: Those specific rules that were stated earlier. It seems to me that the last two speakers did not address those rules but addressed an issue that might be considered subsequently. So I would recommend or ask for a ruling that any speeches made from this point on dealing with these rules address specifically the rules and not the subject that may be considered subsequently. Thank you.

SENATOR CLARK: Thank you, Senator Stoney. I would hope that would be true. It is awfully hard to keep them on the subject themselves. Before I do call on Senator Beutler, I would like to introduce Doug and Mary Marvel over here from Michigan, and Mrs. Marvel, I think most of you know. He happens to be the son of our speaker. Welcome to the Legislature. And he is about three inches taller. Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I think as a practical matter it is impossible to divide the question of suspending the rules from the substance of the matter because the question must always be for what are we suspending the rules. But the point I want to address specifically is the constitutionality problem. Senator DeCamp has gotten up and said to you there is no problem. A hundred court cases say there is no problem. The AG says there is no problem. I tell you there is a problem and I want to read to you from the case of Nebraskans for Independent Banking versus the Omaha National Bank and I hope you will listen to this example because it is right on point. This was a banking bill in 1976. Many of you may remember it, LB 763, and it was introduced in January. Then on March 1, 1976, the bill was gutted entirely. The banking bill was entirely gutted on March 1, 1976. You

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expedited it on March 4, 1976. Four days later you passed it and the court says, "The Nebraska Legislature under the pretext of amending LB 763 introduced a distinct subject matter to the bill violating the constitutional provision that no such vote upon the final passage of any bill shall be taken, however, until five legislative days after its introduction". And it held it was unconstitutional. Now I tell you you can't get much closer on court cases than that one. Now I can't sit here and tell you I have done all the legal research on this because this has come up very quickly and there may be other cases that are pertinent. But likewise, John DeCamp can't tell you that it is constitutional when I am telling you I have got a case before you that tells you it isn't. In addition to that, the Constitution says "after five days", after five days. We cannot do it after five days with four days left. So I don't think there is a question as to the time period either and I hold to my original opinion that it is unconstitutional. Thank you.

SENATOR CLARK: Senator Peterson, Senator Howard Peterson.

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

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

CLERK: Senator Clark voting aye.

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

CLERK: 28 ayes, no nays, Mr. President, to cease debate.

SENATOR CLARK: All right, Senator DeCamp, do you want to close?

SENATOR DeCAMP: Mr. President and members of the Legislature, yes, Senator Beutler, I am extremely familiar with that case and there is only one person in the room that is more familiar, a guy named Loren Schmit. The case you are talking about was the famous tube case. Remember the tube out of the...I think it was the Omaha National Bank across the street. Just before the Legislature was to adjourn, a ruling came from somewhere... I see Cal and everybody smiling, you all remember the tube case, don't you....new information came down on an issue that had never ever been before this Legislature before and said, hey, the tube is really not what it is supposed to be, it is something else. So we gutted a bill on Final. We knew the risks at the time because the issue had never been in the Journal, had never been anywhere. Here we do have five days. I think that is safe enough in itself. Additionally, the issue has been before the body, and finally, finally and maybe most importantly if we are wrong you should be the happiest ones in the world because then you will be able to put all the little Christians in jail or close their schools or lock them up, or whatever. So, you should be deliriously happy if we are wrong. I think it is constitutional. I am satisfied in my own mind, and so I would urge you to suspend the rules and give Senator Koch and Senator Warner or other signers of the proposal, Senator Stoney, Kremer, so on and so forth, their chance to at least utilize their solution to resolve this issue for one year until it can be addressed in January by a new Legislature without sending people to jail or closing down schools.

SENATOR CLARK: For what purpose do you rise, Senator Haberman?

SENATOR HABERMAN: Point of order, Mr. President.

SENATOR CLARK: State your point.

SENATOR HABERMAN: Two wrongs don't make a right.

SENATOR CLARK: Neither do two lefts. The question before the House is a suspension of the rules as stated by

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

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

CLERK: Senator Clark voting no.

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

SENATOR DeCAMP: How many are excused? Eleven?

SENATOR CLARK: Two.

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

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

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

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

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

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

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

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

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

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(Read LR 188 as found on pages 2227 and 2228 of the Legislative Journal.) Mr. President, pursuant to the rules that will be laid over.

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

SENATOR BEYER: Point of personal privilege while we have got a little time here waiting for these Senators to arrive.

SENATOR CLARK: Go ahead.

SENATOR BEYER: Over the past several days several of our illustrious Senators and colleagues here have had some problems when they get out of here and go out on the evening. They accidentally lock their keys in their cars, so to keep from exploiting my talents any more and to get this issue settled, I want to present some keys here, and no offense to the Polish, but we got some Polish key rings to go to Senator Dick Peterson and Senator Carol Pirsch. And Carol isn't here, we will take care of her later. Thank you.

SENATOR CLARK: Senator Peterson, I hope they fit your car. Everyone is here. We have a notice here from Senator Howard Lamb reminding the committee chairmen to submit their interim study resolution reports today. This is the last day for them. Senator DeCamp, did you want a roll call vote? Call the roll. Everyone will remain in their seats and I hope we can be quiet so the Clerk can hear the response, please.

CLERK: (Read the roll call vote as found on pages 2237 and 2238 of the Legislative Journal.) 31 ayes, 13 nays, Mr. President, on the motion to suspend those rules.

SENATOR CLARK: The motion carries. The rules are suspended. Do you have a motion on the desk?

CLERK: Mr. President, yes, sir. Mr. President, the next motion I would have on the bill would be to return LB 472A to Select File for a specific amendment. That amendment would be Request 2463.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Okay, what's the amendment? The motion. Okay, the motion is to return to Select File for a specific amendment. All those in favor...what's the matter? Okay, Senator Newell.

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SENATOR NEWELL: Mr. President and members of the body, I rise to oppose the returning to Select File of LB 472 for the specific amendment. Now we have not heretofore had an opportunity to talk on this issue on the direct issue involved, but I think there needs to be a little debate on this issue because, in fact, it is a very serious and very important public policy decision we are making in a very inappropriate manner, but yet a policy decision that this Legislature and the people of the State of Nebraska will be living with. Now first of all I would like to say that the issues have been discussed from time to time in the rotunda, on the floor, in our offices, on the way to our cars, etcetera, etcetera, and I appreciate those people who have been very sincere in their arguments and in their belief that this is an appropriate amendment. And for those who have been most threatening, like Reverend James F. Hunt of Temple Baptist Church in Omaha who has been exceedingly threatening in regard to this issue, I can only say that as a Christian man the issue itself is one we ought to be discussing and not threats, political consequence or any other kind of consequence, and I would admonish him in particular and others who make particularly harsh political and other kinds of threats. For those who have discussed it, I think the issue is very clear. It is a question of whether this Legislature is going to authorize civil disobedience. Now I want to say that during the Vietnam War there were many people who refused to serve their country. That very act of civil disobedience led to them being sent to jail or prosecuted for that sort of conviction. I have always had great respect for those people and I personally could not join them because I did not agree with them, but I always had great respect for those individuals who were willing to accept the consequences of their civil disobedience. However, we have here an issue, whether the Legislature, because we have individuals who say that they will not obey the law of the State of Nebraska should be exonerated, that we should change public policy, we should change the law to prevent them from going to jail because they choose to be civil disobedients, then I say, that that should be their choice. But this public, this Legislature, this state, should not run pell-mell to prevent a few who continue, who persist, in disobeying the law, who argue that it is their right to disobey the law because of their religious convictions, and I would argue that question. I hope somebody will talk about that. That is one that does deserve to be addressed on the floor of this Legislature. But they feel that we ought to change the law. They feel that we ought to, in fact,

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amend the laws that have served this country, that everyone has lived under, and we should do this because we should prevent them from being unlawful and civil disobedients. Senator Koch and others argue that the merits of this issue should be addressed solely on the issue of whether these people should be sent to jail or not.

SPEAKER MARVEL: You have one minute left.

SENATOR NEWELL: I don't realize or never realized that that was, in fact, the issue. I have seen no court order and, in fact, there is no court order that these people be sent to jail. The court order is very simple that they should cease and desist disobeying the law by continuing to teach in schools with unaccredited teachers. Now for those who say this is a religious issue, I disagree. To me, it is very clearly an economic issue. Other religions have been faced with the same sort of criteria and they have met it, and they have met it for very simple reasons, because that was the law and they were obeying the law. They paid the extra cost of teachers who were certified because, in fact, that was the law. This is not a religious issue. This is purely an economic issue, and I don't think, and I resent greatly...I resent greatly God's name being used in this regard.

SPEAKER MARVEL: Your time is up.

SENATOR NEWELL: I would urge my colleagues to oppose this amendment. The issue is clear and I do not think that we should be running pell-mell to change the law for a few who choose to disobey it.

SPEAKER MARVEL: Senator Beutler, we have one, two, three, four, five, six, seven, eight...we have nine different names. Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, I will wait in that case.

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, has this bill been returned yet or is that what we are discussing?

SPEAKER MARVEL: The motion is to return the bill.

SENATOR CHAMBERS: Right. Mr. Chairman and members of the Legislature, when I was a small child I used to spend a lot of time in church and it used to last forever. I got

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an understanding while I was in church of the meaning "everlasting", just on and on and on. And when I wore wool trousers on hot summer afternoons on Sundays sweating and suffering for the Lord, I used to wonder how in the world they thought what I was hearing was going to make me a better human being when while sitting there I was becoming increasingly a worse human being. I didn't love those people who were talking all the things they were talking to me. I was wondering if they really meant what they said, why they didn't stop this child from suffering. Now I said that to say this, we have plenty of time here. A legislative day does not end until midnight of the day on which it convenes. There are a lot of motions up there and I am prepared to stay for the duration just like I used to stay in church. So every motion that comes up that I get an opportunity to discuss, I am going to. And if they try to close off debate before I can discuss any particular issue, I have some motions of my own to ensure that I have at least forty minutes time of your undivided attention for openers. Then since there are four motions, I will have five minutes at least to close on each one, so that gives me twenty more minutes. So you are going to have the opportunity to listen to me at various intervals for at least an hour on this day of May 22nd, 1981, and the reason I am going to be speaking is to try to use every means at my disposal to prevent the adoption of this amendment which is being offered. Should it be adopted, I would want to tinker with the bill as you will change it to put in some fine tuning. I am wondering if those who have supported this amendment so far have looked at the language of the bill. Although certain provisions will track the language of 79-1701 to 79-1707, I wonder if they truly know what a private school is. What would the definition in statute or law be of a private school? It doesn't have any reference, Senator DeCamp, to the military which is open only to those who are just coming in and have a rank below Corporal. We all know what a Private is. And it doesn't relate to matters of privacy such as you find in bills dealing with the right to privacy. I don't know for sure what it means, but I am sure there is a definition some place, and I hope that those who are for this amendment will explain that. I don't know the difference between denominational and parochial, but I think they all relate to religion. But if you have different names for various denominations, why do you have to have a different adjective to describe all of the religions that you are talking about collectively? And maybe somebody can explain to me whether or not a denominational school is also a parochial school and vice



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versa, and if they are the same, why do you have two different words? But when we are dealing with statutes, every word must be accorded a meaning. So if there are two words, each of the words must have a meaning different from that of the other. So based on that, in contemplation of law, denomination and parochial don't mean the same thing. But I don't know what the difference is and I don't believe anybody on this floor can tell me and to be frank about it I don't think anybody cares about it much more than I do. Nevertheless, these types of subject matter lead to discussions of the kind I am engaging you in now. Everybody talks about it, nobody is interested in it, nobody does anything about it. But it is the kind of thing that causes war. It is the kind of thing that will bring numbers of people to the Legislature to persuade them to suspend all of their rules. As has been touched on earlier, the people asking for a suspension of all the rules would not agree with me if I would say, well, let's suspend all the rules in the Bible, let's suspend the Ten Commandments. They would say, oh, for shame, God forbid. Why? I believe in the rules of the Legislature more than they believe in that. At least on the floor of the Legislature I abide by the rules. Their rules tell them to be an example for everybody else. Give to Caesar what is Caesar's. Now they can't say that Caesar is being unreasonable when Caesar attempts to impose rules and regulations designed to protect the welfare of the children.

SPEAKER MARVEL: Your time is up, Senator Chambers.

SENATOR CHAMBERS: Unfortunately I thought so.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, the hour is late as everybody knows and tempers are a little short, and tempers aren't short. My good friend, Ernie, never has a short temper. Look, I admit and we have all conceded the procedure is unusual, and sure it is not the way we would like to do things. However, enough people in this body apparently believe they would like to find at least a temporary solution to what they think could be a big problem and these are about the only mechanical means of doing it and it's...I guess it's really about that simple. They are not trying to tear down the public schools, any of those things, it's pretty simple. There are some people, right or wrong, good or bad, wise or unwise, who because of...and I use the word, Senator Newell, because of religious convictions

believe that they would like to educate their children in a little different manner. Now, what are they willing to accept? Well read the amendment. They are willing to accept a curriculum that is approved by the Board of Education. They are willing to accept the attendance, the records, fire safety, you name it. Heck, they would love to have all the kids tested in the public and private and everything, love to compete against them. They are willing to accept any testing or something like that. What we are doing with the amendment is buying six or eight month's time until Jerry Koch and the Education Committee can look at the issue in more detail and we are saying, if you will meet all these standards, curriculum and everything else, well, we are not going to close you down and we are not going to lock you up, and we are going to give you a chance to really prove your case, and maybe learn a lot more about the issue between now and January. I apologize for the methodology, but for four or five years the issue has been before other committee hearings. They couldn't even get to the floor, couldn't even get their shot here. Couldn't get any testing of the issue here. So this is about the only solution. So I would urge you to adopt the amendment and give them a chance to iron this thing out between now and January.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman and members of the Legislature, three or four years ago the Banking people decided they wanted a bill passed. There were about five or six that agreed to it and there was pure tenacity, hung to it till it looked like it was about to happen. This is the beginning of another project. There are very few people who went along with this type of thing. I am not about to change my tactics, my attitude toward religious people, but I do think we ought to hang in there tight, baby, and make all people if they want to conduct a school, conduct it under the laws of the State of Nebraska, let them preach whatever religion they want. Nobody here cares a hoot. But I don't think we ought to let down the bars now just because somebody, because of a mental attitude says that they would consider this the law over the church instead of the church over the state. Senator Chambers, I would like to ask you a question. What is the difference between a private and a parochial school?

SENATOR CHAMBERS: Senator Nichol, it would be difficult for me to give that answer, but I will start like this.

A private school does not necessarily have to have a religious tinge to it. So a private school could be a broader designation than parochial. But wait a minute, maybe it couldn't because a parochial school cannot be maintained by tax money, so a parochial school could never be a public school. So I think private is taken in contradistinction to public. Parochial has to be nonpublic because public money cannot be used to support a parochial school. So if a private school is not a public school and a parochial school cannot be a public school, then insofar as neither one is a public school, they are both the same. But not every private school is a parochial school but every parochial school is a private school. Now under this bill the distinction is not being maintained for the purpose of those private schools which are not parochial, but rather for those parochial schools which are also private. So they are saying, as you pointed out, that because of a particular religious point of view they are indicating that they cannot comply with what the laws of the State of Nebraska are without doing violation to whatever it is that they believe. On the other hand, there are religious schools, Catholic, Lutheran and a host of others too numerous to mention at this time which do live within the requirements of the law as it exists now and they don't see it as a violation of their conscience. In most cases if the Supreme Court of the United States were to review a religious issue, they will describe religion for an individual not in the context of an organized religious belief or body, but rather the motivations that direct that particular person's life-style. However, I think when you come to an organization which is organized and structured as such, it would be a different kind of situation and I think when you come to this organized religion, there is a more stringent requirement in determining what constitutes a religion than in the case of an individual.

SENATOR NICHOL: Thank you, Senator Chambers, and in addition to that and in closing, I would just like to say, Mr. Chairman, that I hope that we come in with an amendment having the voucher system included in it, because if we really believe that this is the route we ought to go, then let's really get with it, take the tax money, give it to the student, let them go to the Christian school that they want to, or private school, and we will bleed those public schools to death. They are no good anyway apparently, so let's just give her all away. Thank you.

SPEAKER MARVEL: Senator Howard Peterson.

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

SPEAKER MARVEL: The question has been called for. Do I see five hands? I don't. The next speaker is Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the Unicameral, let's go back two or three weeks. We picked up the newspaper and the talk of the Legislature was that a minister is going to go to jail. The rotunda was packed with ministers that said, please don't let this man go to jail because of his religious beliefs. He is going to go to jail and this is a terrible thing to go to jail because of your religious beliefs. I walked out into the rotunda and I walked up to these men and I said, who told you that this man was going to go to jail? Well, what do you mean? I said, who told you he was going to go to jail? Did the District Judge tell you he was going to go to jail? Well, no, maybe he did in his private chambers. I said, well now let's come right back to it, did the Judge say he was going to go to jail? The answer is no. Deacon DeCamp said, the Attorney General said he is going to go to jail. Well, the Attorney General can't put him in jail until the District Judge is through with him. So that flies out the window. So this body was panicked. We touched the panic button to do and to change something because someone possibly could go to jail. Now, I ask you, what would happen if they put a minister in jail because of his school? Well, Judge Krivosha, the Supreme Court Judge, would probably have a heart attack because he is trying to have good public relations with the people in the State of Nebraska to show that the judges are doing good things and then one of them puts a minister in jail. He's not going to go to jail. Now they might put him on probation or something like this, but they are not going to put him in jail. Now I have got some people in my district, the Mennonites, and they have their school. They have been down here twice and asked me would I help them with legislation with their school. And I told them, yes. But I don't know whether they agree to what we are doing because they haven't seen it. They haven't had a chance to read it. I don't know whether the Amish religion is in favor of what we are doing because they haven't had a chance of any input. I don't know about the people in my district how they feel because we haven't had an opportunity to have any input. Furthermore, it's a rule that says they must have certified teachers and the Administrative Rules Committee is having a public hearing

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five of them at least this summer on this issue. I think it should be out in the public, have a public hearing, let's hear both sides of the story and not be panicked on the fourth day of this Legislature to pass an issue like this in such a hurry. And I say to you like my Dad used to say to me, if somebody pushes you and pushes you hard, back up and take another look. So don't panic and I oppose the motion. Thank you, Mr. President.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: Mr. Speaker, I move the previous question.

SPEAKER MARVEL: The previous question has been called for. Do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed vote no. Have you all voted? Yes, this cease debate. Have you all voted? Record the vote.

CLERK: 27 ayes, 4 nays to cease debate, Mr. President.

SPEAKER MARVEL: Debate has ceased. The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: I waive to Senator Koch.

SENATOR KOCH: Thank you, Mr. Speaker.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: It is very interesting how issues which are emotional and sensitive can be completely taken out of context without trying to get down to some factual positions. To listen to some people in here speak is as though we are allowing these people to go on their merry way without any kinds of supervision. If you have read the amendment I have given to you, there is supervision. In fact, as I told you the other day, it reminds me a little bit of Class I schools. It really does. What we are doing is we are saying the parents of these children shall by affidavit notify the county superintendent their child is indeed in a school within a certain public school system and is indeed attending regular sessions where there is indeed a structured curriculum, and where the county superintendent can ask for testing which proves the children are becoming proficient in the disciplines of learning. Now I submit to you there is supervision. This then has to be filed annually with the State Department of Education like we file a lot of things with the State Department of Education. The county

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superintendents are still here, so I see no problem with it whatsoever. In addition to this, I want to say to you and to Senator Chambers and others, Senator Chambers is a great believer in abolishing the death penalty, and I would say the question is, what if a man were condemned to death row and this Legislature could act in a way in which we might abolish that and save the man's life? That may be an extreme analogy but I think it is applicable right here. And I would also correct the record that these people have been told who have been through the court that they have no alternative but to go to jail, and that is in writing. Now, what we are trying to do is provide time where emotions can die down and where studies can be made, and where this Legislature in a deliberative process can indeed pass a law which is fair. Not only that, but I think that all of us would not be very happy if we thought that we could correct a law and be reasonable without incarcerating certain kinds of people because of a religious belief. We are not without precedent. We do this for the Christian Scientists on so many bills I can't tell you the number, and that has to do with medical treatment. I ask for the adoption of this amendment.

SPEAKER MARVEL: Okay, the motion before the House is to return to Select File. All in favor of that motion vote aye, opposed vote no. Have you all voted? Record.

CLERK: 25 ayes, 13 nays to return the bill, Mr. President.

SPEAKER MARVEL: Okay, the bill is returned. The motion now is the adoption of the amendment. Okay, Senator DeCamp.

SENATOR DeCAMP: Mr. President, I waive my time to Senator Stoney.

SENATOR STONEY: Thank you, Senator DeCamp. I had my light on on this issue for quite some time and did want to comment before the amendment hopefully is adopted and the bill would be advanced. I think what we have to do is really examine the issue and the heart and the core of this particular issue of what we are talking about. Essentially, we are talking about Christian parents who are asking for the right to educate their children in Christian schools which apply fundamental biblical Christianity in its curriculum and instruction. And why are they asking for this? Well, because they are convinced that much of what public schools are teaching is totally incompatible with their religious beliefs and their faith. Now these are deeply held Christian philosophies and faith

that these people have. I think we have to understand that. As a believer myself I think it is easy...perhaps easier for me to understand than others. But let's consider, for example, some of the things that we are talking about that no longer appear in public schools that these individuals would like to provide their children in the Christian schools. The Bible we no longer have in the public schools, unless it is somewhere on the library shelf, but it is not incorporated in the teachings. Prayer, we no longer have prayer in schools. Formerly this was incorporated. Evolution is taught, we know that. This is a philosophy and a theory that is incorporated in public school curriculum, but they fail to realize or recognize rather the creation theory. Senator Peterson this year had a proposal that would have provided for the exposure of this theory as well to those in public schools, but it did not meet with success. Sex education is taught in the public schools. These people believe that this is the responsibility that they have as parents. These children were entrusted to them by God and they feel that it is their responsibility. I have a tendency to concur. I don't believe that this is an issue that should be used in the public schools to instruct children by means of a third party, a disinterested party. In essence, their contention is that public education is government education and I think we would all concur with that. And from what I have stated above it is an education without God. And they are just asking for the opportunity when raising their children to be able to incorporate in their teachings what they deeply feel about their heavenly Father. Now there is another point I would like to make and that is that Nebraska is only one of three states that does not provide for this particular exemption. So we are certainly in a minority. I guess the bottom line in the thrust of this particular issue is whether or not a person's religious beliefs and how they feel relative to this issue can be compromised, and I think in this particular instance that the commitment that a family has made to their heavenly Father supercedes that of the rules and regulations that have been adopted by the Department of Education in any state, the Board of Education in any state, or a school board in any particular school district. And I happen to believe that, ladies and gentlemen, very, very sincerely. When Senator Newell indicated that this is not a religious issue but rather an economic and a monetary one, I hope that you will give some consideration to the remarks that I have made relative to these Christian parents that wish to educate their children and incorporate their religious beliefs in that instruction. I believe that is all the

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points that I wanted to make, ladies and gentlemen. I thank you for allowing me to share this with you.

SPEAKER MARVEL: Senator Chambers. Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, I wish to oppose the adoption of the amendment. I would certainly agree with Senator Stoney that there are some things going on in our public schools today with which I do not personally agree. Now I think that the other members of the Education Committee will verify that I have talked about some of those things and that we are trying to deal with some of those things. It is true that there is no prayer in the school. It is true that there is no Bible in the school, and it is true, I think, that creation theory is not taught in the schools and I don't know personally whether it should be or shouldn't be. If there is a theoretical basis for it, then I guess I think it should be. But the point is that if you want to start a school where there is a Bible, or where you have prayer in the morning and in the middle of the day and at the end of the day, and where you teach creation theory right alongside evolution theory, you can do it. The Catholics have done it. The Lutherans have done it. One religious sect after another has done that. The law has been in effect since 1912. I think it has been many, many years since any of the relevant provisions of the law have even been amended. I certainly don't have anything against Christian schools and with regard to the specific ones that I know about that have been down here at the Legislature I don't have the least doubt but that they will do a good job by their children. I went to a Christian school, a Catholic school. I feel that my education at St. Bernard's Grade School was as fine as what was provided at the public schools, maybe better. Nonetheless, the state has a responsibility. The Constitution of the State of Nebraska says that we in the Legislature have a responsibility to see that the education...that the children of this state are educated. To that end, we have over our long two hundred..hundred year history developed a set of rules and standards which are minimal in character but which we apply to all the children of the state because it is our responsibility to be sure wherever they are educated that certain things are done. You may not agree with each and every rule. You may not agree this teacher certification is the best process. Or you may not agree that certain requirements of rule 14 the other basic requirement, is necessary. But if you don't agree, shouldn't you be asking yourself this question, why are we applying it to every child in the state? Senator Koch, I have a question for you. Do you believe



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that teacher certification is in the best interests of the children of this state?

SENATOR KOCH: When it comes to public schools I do, yes.

SENATOR BEUTLER: Senator Koch, what is the difference between a child in a public school and a child in a private school? If it's good for one, isn't it good for the other?

SENATOR KOCH: The difference?

SENATOR BEUTLER: Yes, sir. Shouldn't we protect all children equally?

SENATOR KOCH: Well, when have we ever treated them equally? The parents are the people who decide that.

SENATOR BEUTLER: Senator Koch, isn't teacher certification a requirement across the board in private and public schools...(interruption).

SENATOR KOCH: It is, in public schools it is and some private schools accept that as a part of the rule.

SENATOR BEUTLER: Isn't it a requirement? Aren't the minimal standards applicable...the Department of Education applicable to private schools now?

SENATOR KOCH: Certain ones with the exception that we are just about to adopt. We are going to ask for a waiver.

SENATOR BEUTLER: Senator Koch, that is why I am asking you, why are some children different than others?

SENATOR KOCH: Ask the parents of those who choose to send their children to those kinds of schools, Senator Beutler. You know my position on this.

SPEAKER MARVEL: Senator Beutler, one minute.

SENATOR BEUTLER: Is your position, Senator Koch, that it is the parents' responsibility and that the state has no responsibility?

SENATOR KOCH: No, I don't approve of that but I have to face the fact of life when I look at the moral majority and others and try to work out a reasonable compromise. That's my job.

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SPEAKER MARVEL: You have about thirty seconds.

SENATOR BEUTLER: Mr. Speaker, in closing I would like just to quote, and I think it comes from a Bible, about rendering unto Caesar as that which is Caesar's and in regard to that which is God's, and I suppose in this day and age we get into lots of arguments over what is proper matters for the state and proper matters for the church, and sometimes we come down one way and sometimes the other. I don't suppose anybody in here is against repealing the law of bigamy even though that is against some people's religious beliefs, and why not? Because we think we have a responsibility to the society as a whole to provide certain minimum safeguards and I tell you that nothing is more important to the state than the children and you can be assured today that that certain group has the best interests of their children at stake but that doesn't always mean in the future it's always going to be that way and I ask you not to say that a portion of the children don't get the state's protection, which is what we would be saying if we adopt this amendment. Thank you.

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SPEAKER MARVEL: Okay, Emory Burnett has a note and then we will proceed.

EMORY BURNETT: I am going to be very brief...

SPEAKER MARVEL: This will remind us that we are getting down toward the end of the session.

EMORY BURNETT: ...and to help stave off heart attack, I am not here to report computer problems. I am here to make a request of you though that can help me avoid possible problems in the future. I do have limited space on the computer and after a session I have to wipe out everything I can to prepare for the next year but there are certainly some bills that were drafted for this year but not introduced and possibly some that have been indefinitely postponed that you might want another try at. I would appreciate it if you would give me a note and let me know what request numbers or what bill numbers you would like to have saved.

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, members of the Legislature, if you want to find a way, if I appear to you as Dracula, and you want to find the stake that you can drive through my heart, then look at evil things that are done to little children. If I have an Achilles' heel that would be the children. If my strength and weakness could be found in any one location it wouldn't be like Sampson where his hair is cut off and he is weak but it would be in the way children are dealt with. The state does stand in many instances in place of the parents. Senator Stoney, others on the floor like Senator Kremer and others who make a public profession of religion have their view which they think is legitimate, valid and proper for them and I do not object to that. As I always say if a person believing that worshipping sticks and stones, the sun, the moon, the stars are pantheism, if believing that would cause that person to treat me right, then I say "right on" for whatever it is they believe in and give it to everybody so that my children do not have to get a court order to go to school because they have the complexion that I have which Christians tell me God caused. Well if God caused me to be as I am why am I condemned for it and treated in a derogatory fashion as a result of that? Why do the Christians demean me? Why will they put up, if I move into the neighborhood, a sign, "For Sale", "For Sale," "For Sale." Then it would take a nonbeliever to complete the progression with a sign that would say, "For Shame." So when I hear the public protestations about religion but

I don't see the fruits that those protestations should produce, then I have to be concerned about the validity of these protestations. It is all right if adults trick each other because we ought to be watchful. Jesus knew what was in the world of religion. He said, "Be wise as a serpent and as harmless as a dove. You are going out there amongst some tricky people. They are just like the serpent himself so watch him. Don't just pray, watch and pray." We have to watch out for the little children and if hypocrisy can be practiced in the lives of the adults who make all these protestations, what assurance do we have that there won't be misrepresentations about what happens in the schools? You talk about letting people do anything their religion would tell them they ought to do. Are you aware of the fact that the Bible talks about people taking up poisonous serpents and not being harmed and yet there are laws against that very practice in the southern part of the state where people want to do it because some people believing the Bible literally took up the poisonous serpents and despite what the Bible guaranteed, they were bitten. The poison took its predictable course and they died. And you know the consolation that his fellow religionists have to say? If a man dies, will he live again? And they say, certainly he will. But if that is the truth why do I see so much fear of death? Even when the Pope was shot who is considered the epitome of religion on this earth, he said it was God's will that he be shot. So why then, instead of praying that he live, did not the Christians say, well Jesus said on the Cross, not our will but thine be done and if it is your will that he dies, then he dies. But they were not content to leave it in the hands of God because they were not sure which way his judgment would fall. We see compromises with these so-called sacred religious principles at every turn in the road when the sun is shining. When you have plenty of food on the table, when your children are well clothed and well fed it is easy to say there is a God in heaven ruling over everything and thank God, but then let the adversity come. Let death who has been referred to as the hound dog of the earth who catches you no matter how long it takes to catch you. Let him start nipping at your heels. Do you thank God because you are coming close to the time when you can be joined to him as you are taught will happen when you die? No. You go to the doctor and ask him to give you some medicine. You call in the other people to pray for you so that you will continue to be separated from God.

SPEAKER MARVEL: Thirty seconds.

SENATOR CHAMBERS: So, if these things which are most essential to religion can be compromised, why should we believe that matters related to the temporal or earthly well-being of the children

will not be compromised. I am not through but my time is.

SPEAKER MARVEL: Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I voted with Senator Koch and Senator DeCamp to suspend the rules because after watching this issue in the rotunda for four weeks and receiving correspondence on it and realizing that there were people who, in a sense, were witnessing to their faith by being prepared to go to jail or face other penalties of civil contempt, it seemed to me that it was finally important for us to debate the issue on the floor of this Legislature because that is one of the functions of the Legislature. It is a debating body. It is a body designed to ventilate public feelings on a subject but just because I voted to suspend the rules to debate the issue does not mean that I am going to vote to suspend the rules in respect to our educational institutions. One of the essences of the society in which we live is the concept of ordered liberty. We enjoy freedom of conscience. We enjoy freedom of religion. We enjoy freedom of the press. We enjoy freedom of the ballot box because we have some rules. That is the order of concept for the liberties that we have and if we had no rules we will live in a state of anarchy where only the strongest would survive and the weakest would fall, where persons of different religious persuasions from others would be crucified and killed. It is rules that essentially allow us to live well with one another in the pluralistic differing valued kind of society that we live in and now we are being urged to suspend the rules, in effect, that have been on our books since 1912 with respect to the education of our children in this state because some people have certain religious convictions and they present to us those religious convictions as a sine qua non for the suspension of the rules. There have been many people in our society who have had differing religious convictions and to have gone to jail for those convictions. Let us talk about conscientious objectors. Let us talk about pacifist for a few minutes. You know conscientious objectors status did not come into the law until right at the beginning right before the second world war. We didn't have conscientious objectors status during the first world war and as a result of that Quakers went to jail and Hutterites went to jail and Amish went to jail because they were not going to be drafted and fight. But we recognized in our society that we could begin to afford the price of allowing conscientious objectors status and as a result in the late '30s we developed a series of exemptions to our draft laws to allow persons to come before Selective Service Boards and demonstrate the fidelity of their religious convictions so that they would not have to go and fight. They might well have to do alternate service as opposed to go abroad and kill people. We had gotten

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to a point in our society where we could tolerate and accept those kinds of differences but in the amendment that Senator Koch has presented to us there is nothing in this amendment that even begins to compare with the kind of testing that we, as a society, did to protect conscientious objectors status. We truly made an inquiry as to how deeply felt the religious beliefs were of an individual who did wish to avoid military service because that person could not in his religion or her religion, kill. There is nothing in this amendment which even begins to say that the affidavit that a parent submits that his religious beliefs or his convictions are genuinely held. Now let us talk what has happened in other states as other states have provided exemptions to their public and parochial education laws to allow private schools. You know what has happened in the South. White children have moved by the hundreds and the thousands out of public schools and have gone into what are known as Segregationist Academies. Those are private schools and they have been able to make that movement because southern legislators were not able to hold firm in their commitment to public education for all and that really is part of the issue here...

SPEAKER MARVEL: You have a minute left.

SENATOR V. JOHNSON: ...We have a major breach in the dike where we are prepared to accept an affidavit of a parent that his or her conviction require him or her to educate that child in an unregulated facility. It goes too far. I think at this time we should be prepared to reject the amendment and we should quietly and contemplatively go about our study of this issue and next session we can come back with a carefully defined and refined law and we continue in that way to support the basic concept of our society, a concept of ordered liberty.

SPEAKER MARVEL: The motion before the House is the adoption of the amendment. All those in favor of that motion vote aye, opposed vote no. Okay, Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, it is five, o, two. My guess is you are tired. Hmm? How do you feel right now? All right, let's do it. What the heck. I have never been in three years in a real filibuster all the way. Let's do it right now. I mean, we've got the lines drawn. We've got four more motions up there. Let's go for it. I have brought down some of the accumulated wisdom of my office. I intend to read you some of my favorite poems. I want to read you some of my favorite quotations. I have a lot of things that between now and eight, nine and ten o'clock I want to talk to you about. Not all of them are

directly relevant to 472 but I will find a way to make them relevant. You know when Ernie stood up and talked about those four motions, John stood up and said, look, we've got our thirty votes. Come on now. Be fair. There is a word in the English language, oxymoron. Oxymoron is an English grammar term. It is where you put two things back to back to be expressive but, in fact, those two things are contradictory like burning ice or like roaring silence or like military intelligence, Peter says, or jumbo shrimp. I think John DeCamp and "be fair" is an oxymoron. Okay? What I am talking about is saying to us, hey, be fair with us because we've got our thirty votes. Come on now, let that legislative majority roll. Give us a chance. Take your motions off. Come on. We've got our thirty votes. Let us roll. And in turn we have to say, you be fair. You, thirty votes, be fair to the people who gave you and entrusted to you the Unicameral system, a system of government that is different than a two house because, number one, it saves money and, number two, it is open and accountable but it is not designed to act like we are acting today. It is not designed to do what we are doing here right now and, believe me, I've got all the will in the world it takes, until you silence not only Senator Chambers but myself and the other objectors to the way we are acting today and I will be here on every one of those motions and I hope you are ready too because, believe me, I know what you feel like. You want to get out of here. You want to go take a shower. You want to go have a drink. You don't feel very good right now. You want this to come to an end and come to a vote, so you can turn your back on it? And so you can act on Tuesday like you stood tall today. Well I don't think so. Believe me, I am here as long as it takes to show what a charade we are making of the process that we have been entrusted with and I have never filibustered before but, believe me, today I am going to because I have no qualms taking you to task, taking to the floor with any of the rules that you give me to do that if you are going to treat the rules the way you have done it. Now Senator Stoney asks in a pleading way for the consideration of the people that are involved with LB 472. He says, they are only asking for the right to worship. That is not true. Today they are asking for special treatment. That is what they are here for on LB 472. Now it wouldn't be that way if they had a bill in the process from the first of the year. I could understand it as justification. I could understand why he could stand and say, they are only asking for the chance to recognize their worship, but what they are asking for today is for this Legislature to do a back flip, a double back flip, to rewrite laws rather than to have them apply, to ignore a lawbreaker, to turn its back and say, listen, we were kidding. We didn't really mean those laws we passed. We didn't really mean it when we put it them on books. First chance we get to test them, we will take them

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off. Now that is a tough act but a law is a rule that applies to everyone. Now if we didn't mean it the first time, we shouldn't have passed it and if it shows to us that we were unwise to pass it, let's take it off the books, but let's take it off in the way that you take bills off the books and that is you repeal them, you put a bill in to repeal it, you put it right through the process of General File and Select File and Final Reading. You have a public hearing on it and you do away with the law. That is how the rules apply to everyone else and just because someone has an adjective like Christian in front of them doesn't mean they should get special treatment. We've had a long, hard fight in this country to establish the principle that the law stands for everyone. People in my generation went to jail because they didn't want to go to the draft and they should have and the people in my generation didn't pay taxes because of that Vietnam War went to jail and they should have. It was an act of civil disobedience. They knew what they were doing and the law gave it to them until the law was changed. Now that is what should happen here today but because the cast is changed, because the list of characters is changed, this Legislature is prepared to do a flip that Jimmy Hartung would be proud of to accommodate special people...

SPEAKER MARVEL: You have ten seconds.

SENATOR LANDIS: ...and that is not fair. Believe me, I am going to take every one of those ten seconds and a whole lot more time and you may not feel good today and this thing is not going to go away until you either adjourn or you make sure that every one of those motions gets debated fully because I will be back talking the same line again all the way until those motions are done.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: Mr. Speaker, I move the previous question.

SPEAKER MARVEL: The previous question has been called for. do I see five hands? All those in favor of ceasing debate vote aye, opposed vote no. Have you all voted? Okay, record the vote. Senator, why do you arise?

SENATOR KOCH: I will ask for a Call of the House and a roll call vote.

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

CLERK: 17 ayes, 5 nays, Mr. President, to go under Call.



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SPEAKER MARVEL: The House is under Call. All legislators please return to your seats and record your presence. Senator Burrows, Senator Kremer, Senator Wesely, Senator Schmit, Senator Beutler, please record your presence. Senator Kahle, Senator Hefner, Senator Barrett, Senator Wagner, Senator Remmers, Senator Carsten, record your presence please. Senator Beutler, would you please record your presence. Senator Koch.

SENATOR KOCH: Mr. Speaker, may we take call-ins to expedite the procedure?

SPEAKER MARVEL: Yes.

CLERK: Mr. President, Senator Barrett voting yes. Senator Fenger voting yes. Senator Hefner voting yes. Senator Lamb voting yes.

SPEAKER MARVEL: All right, record the vote.

CLERK: 26 ayes, 9 nays, Mr. President, to cease debate.

SPEAKER MARVEL: Senator DeCamp, do you wish to close?

SENATOR DeCAMP: I would waive closing to Senator Dworak.

SENATOR DWORAK: Mr. Speaker and colleagues, I think I heard a lot of things that are said loosely and fastly in debate, especially when we are attempting a filibuster. I think the record ought to be set clear as far as the public schools are concerned. I think everybody knows that I personally have been very critical of the public schools in certain areas but I also think in all fairness that the public schools policy has been mandated many times by our pluralistic society through the courts. You know I have heard the quotation used on this floor numerous times throughout this debate, "Render unto Caesar the things that are Caesar's and unto God the things that are God." I think we need to think about that a little bit. I can remember reading about the early Christians under Rome, under Caesar. Rome practiced polytheism, wanted to impose their religious belief on the early Christians. The early Christians would not accept it. The early Christians were an asset to Rome and other areas especially in the area of taxation. Rome was bleeding them pretty good and they did not really want that to end so Caesar figured out a way that he would allow the early Christians to go ahead and practice Christianity. The only thing the early Christians had to do was recognize that Caesar was allowing them to practice Christianity. They could practice their religion. He did not stop that. He said, go ahead but you've got to accept the fact that the reason you are practicing it is because

I am allowing it and they could not accept that. They could not accept that. I hear some members saying it is the state's responsibility for the children and I wonder how much responsibility the parent has for those children and when you compare state's responsibility versus parents' responsibility, who has the primary responsibility for children? Whose responsibility is it? Who has the greater responsibility or the greater authority, the state or the parent? You know, we don't certify ministers. We don't certify priests. We don't certify preachers. We have never attempted to do that and really what are these teachers in these Christian schools other than an extension of that ministry? It is an extension of the ministry. Now if we admit and we accept the premise that we cannot and shall not and will not certify the minister or the preacher or the priest, where do we think we have the authority to certify the minister or the preacher or the priest's staff? It is a serious question. This is not a light issue. There is some very legitimate serious questions being raised here. We are seriously talking about people's freedom to worship in the way they desire to worship. I don't know what the answer is. I don't know where ministry stops and ministry begins. I don't know...

SPEAKER MARVEL: You have twenty seconds.

SENATOR DWORAK: ...but the issue is before us and we have people potentially that could be incarcerated over this issue. We are not proposing with this amendment a permanent solution to this problem. That is why the sunset is in there. We are asking for an opportunity, just an opportunity to buy some time so we can seriously look at it and study the issue.

SPEAKER MARVEL: Time is up. The question before the House is the adoption of the DeCamp-Koch amendment. All those in favor vote aye, opposed vote no. Have you all voted? Have you all voted? Record vote? Okay.

CLERK: (Read record vote as found on page 2241 of the Legislative Journal.) 27 ayes, 15 nays, Mr. President.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. The motion before the House is the readvancement of the bill. All those in favor of that motion...Senator Newell.

SENATOR NEWELL: Mr. President, members of the body, I wanted very much to speak to the issue of adoption of the amendment but readvancement will do because I firmly believe that the issue is not as it has been presented here today. This is not a religious issue. I not only firmly believe that but I strongly believe that. I listened to Senator

Stoney's remarks and I can concur with his belief that we have, because of the very nature of our society, a school system that does not allow for the kind of religious indoctrination that some people feel is important. I recognize that and I think all of us must and do recognize that some people firmly believe there ought to be that daily religious indoctrination. I do not object to that. I think that is fine but I think that the state has an obligation, a responsibility to ensure that we have instruction of our children so that they can live in our society which requires a very educated populous. I have no opposition to religious schools. I have no opposition to those schools whatsoever and I believe that parents have a responsibility, yes, a responsibility to teach and to educate their children in their religious and moral convictions on an ongoing basis and I would oppose the state injecting itself into that function of the family but we are not talking about that. We are talking here about whether the state has a right or a responsibility to even require the education of children, and not only the education of children, but whether or not that will be done in a manner to ensure that they are properly educated. Certification, certification is the issue here, not religious belief. Senator Beutler talked about religions having private schools or parochial schools for years and years and they have done that and they have done that, complying with every law that the state requires. They have not asked for waivers. They have not asked for anything else. They basically have just complied with those laws and if the law was ever proposed to be reaching into those areas where it has no responsibility, those churches, those people of deep religious conviction said that is an area in which the state should not be involved and we oppose it and in every case the state basically recognized that and backed down. But now we are being asked to make exceptions to certification. We are being asked purely on economic reasons, not on religious basis, but on economic justification to exempt certain people from having certified teachers. It is really...the heart of this issue is whether the state has a responsibility to ensure that every child has an opportunity for an education. We mandate education and we do that and very few people argue the efficacy of that process and very few people have ever argued the efficacy of certification but now it has become an economic issue. It is, in fact, an economic issue. It is solely an economic issue. It is only an economic issue with which many people rise and say, the state has no responsibility because if, in Senator Dworak's words, if they are involved, the state has a right to speak in this regard...

SPEAKER MARVEL: You have thirty seconds.

SENATOR NEWELL: ...then, in fact, they can regulate many other areas. We are not asking to regulate churches. We are not

asking to regulate anything else. We are just basically saying that the state has a responsibility to ensure these people be certified, be properly educated and, in fact, can do that. They can hold their religious convictions and they can teach them day in and day out. All the requirement is, all the state requirement is is that they be certified. If their argument is that this is a contaminating influence, the certification process, the education process, so it be but frankly everything in our society is contaminating. Every...

SPEAKER MARVEL: Your time is up.

SENATOR NEWELL: ...view that is spoke in this world of ours is contaminating if it differs from our own and that is not a justification to change the laws in this regard. I urge the Legislature not to readvance this bill.

SPEAKER MARVEL: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I realize that, in fact, we are going to have to vote on this issue yet tonight and then there will probably be in quick rapid succession I would predict, a motion to adjourn and that motion will be successful and we will have the end of LB 472 today. I would, however, suggest that this charade will continue perhaps Tuesday when the bill gets reported back or perhaps Wednesday and then we will have motions to return again. So in order to prepare you for that eventuality let me just read you a favorite poem of mine from a Russian author named Yevgeny Yevtushenko from a book called, "Seldom Poems." This is written in the late '60s when he came to visit America on a tour and he was aware that the nation had lost its compass and he wrote this poem called, "New York Elegy." By the time this bill gets done, by the way, you are going to be experts in Russian poetry, collectively. I hope you like it.

At night, in New York's Central Park,  
chilled to the bone and belonging to no one,  
I talked quietly with America:  
both of us were weary of speeches.

I talked with my footsteps--  
unlike words, they do not lie--  
and I was answered with circles  
dead leaves uttered, falling onto a pond.

Snow was falling, sliding embarrassed  
past bars where noisiness never ceases,  
settling tinted on the swollen neon veins  
on the city's sleepless brow,

on the incessant smile of a candidate  
who was trying, not without difficulty, to get in  
somewhere, I don't remember just where,  
and to the snow it didn't matter where.

But in the Park it fell undisturbed:  
the snowflakes descended cautiously  
onto the softly sinking leaves,  
soggy multicolored floats;

onto a pink and tremulous balloon  
childishly fastened with chewing gum  
to the trunk of an evergreen  
and sleepily rubbing its cheek against the sky;  
onto someone's forgotten glove,  
onto the zoo, which had shown its guests out,  
onto the bench with its wistful legend:  
PLACE FOR LOST CHILDREN.

Dogs licked the snow in a puzzled way,  
and squirrels with eyes like lost beads  
flickered between cast-iron baskets,  
amidst trees lost in the woods of.....

SENATOR WESELY PRESIDING

SENATOR WESELY: Excuse me, Senator Landis. Senator Cullan,  
for what purpose do you arise?

SENATOR CULLAN: Mr. President, I would raise a point of  
order. Senator, I enjoy the poetry as well but I do not  
believe it is not germane to the issue at hand and so I  
would ask the Chair to ask Senator Landis to address the  
issue or to refrain from speaking. Thank you.

SENATOR WESELY: Senator Landis, will you please try to  
bring your comments in line with the discussion at hand.

SENATOR LANDIS: It will, as a matter of fact, become  
germane at the end I hope. I intend to tie it towards  
the issue at hand and I have heard Shakespeare quoted on  
this floor. I have heard the Bible quoted on this floor.  
I have heard the Declaration of Independence quoted on  
this floor. I see no reason why we can't enjoy the effect  
of a good poem although it may be lost on Senator Cullan.

Behind a wire fence, zebras munching hay  
peered, at a loss, into striped darkness.  
Seals, poking their noses from the pool,  
caught snow in mid-flight on their whiskers;  
they gazed around them, quizzical, confused.....

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SENATOR WESELY: Excuse me, Senator Landis. Senator Cullan, on what point do you arise?

SENATOR CULLAN: ...point, Mr. President, if a Rules Committee Chairman, a young one though he be, sat in the presiding Chair, he ought to have the courage to make a ruling. If Senator Landis is not in order, shut his microphone off.

SENATOR WESELY: Senator Landis, will you please try to relate it to the discussion at hand.

SENATOR LANDIS: Mr. Speaker, I can say that this poem is about the idea of losing one's way, being lost and without principles and I would regard that as terribly germane to the action we take today in which we defy our constitutional obligation to respect this process and if Mr. Cullan does not think that that is relevant, the idea of losing one's way and defying process and procedure, I think there is nothing else that could be more germane and I would stand on my right to read to this body what I regard to be a very relevant piece of literature. And I, too, would await a ruling of the Chair.

SENATOR WESELY: I find it germane. Continue.

SENATOR LANDIS: Good. Let's challenge. I would love to talk about that. My light is on again.

SENATOR WESELY: All right, Senator Cullan.

SENATOR CULLAN: I will withdraw my motion.

SENATOR WESELY: Go ahead, Senator Landis. You have about two minutes left.

SENATOR LANDIS: I hope you will subtract the time that Senator Cullan used.

SENATOR WESELY: You have one minute left, excuse me.

SENATOR LANDIS: Excuse me, Mr. President, I am asking for a clarification here. Did you deduct the time that I had to answer Senator Cullan's spurious remarks with?

SENATOR WESELY: Yes.

SENATOR LANDIS: Oh, all right. In that case, I will just skip to the end.

SENATOR WESELY: Excuse me. Senator Beutler, on what point do you arise?

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SENATOR BEUTLER: ...continuity of the story, Mr. Speaker. I was wondering if he could be given an extra thirty minutes to kind of go back and rehash the beginning part so we could get the whole point again.

SENATOR WESELY: I rule you out of order. Continue, Senator Landis. You have thirty seconds.

SENATOR LANDIS: How could I have thirty seconds when Senator Beutler has just taken my time? All right.

"And I felt some stranger's feeling of being lost  
and was searching embarrassed  
for a feeling of being lost like my own,  
not knowing that this was what I longed for.

At night, beneath this snowfall,  
its whispered secret having made us one,  
America and I sat down together  
in the place for lost children."

SENATOR WESELY: Your time is up, Senator Landis.

SENATOR LANDIS: I would ask for indulgence of the Chair to continue to make certain that that poem is, in fact, relevant. I will do it within one minute.

SENATOR WESELY: Your motion is unanimous consent to continue then, isn't that correct?

SENATOR LANDIS: Yes, it is.

SENATOR WESELY: Okay, seeing no objection, continue. Whoop. Almost. Your time is up. Senator Chambers is next. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, what some of these people on this floor have to realize is that there are different ways you have of making a point and in the same way that I spoke for the right to have this thing considered in the first place and Senator DeCamp argued that the Chair should not be asked to rule what is in people's minds. If certain people are so earthbound and literal that they cannot perceive that parables are used to teach very profound truths, they don't even understand the main point of the religion that is being discussed here. I have something that I am going to read and I am going to explain to those of you who don't understand these things why I am reading it in the first place. This poem was written by Robert Herrick and a minister thought it was wrong to be taught because it glamorizes what must be a witch and the devil and you listen to it and see if you think it would corrupt some child's mind. It happened

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to have been written in 1648 and I am going to tie it in even tighter.

"The hag is astride the night for to ride  
the devil and she together,  
through thick and through thin now out and then in  
though ne'er so foul be the weather.  
A thorn or a burr she takes for a spur  
with a lash of a bramble she rides now,  
through breaks and through briars or ditches and mires  
she follows the spirit that guides now.  
No beast for his food dares now range the wood  
but hushed in his lair he lies lurking  
while mischief by these on land and on seas  
noon of night are aworking.  
The storm will arise and trouble the skies this night  
and more for the wonder.  
The ghost from the tomb of fright it shall come  
called out by the clap of the thunder."

Now what is wrong with that? That is going to send somebody to hell? Why that is ridiculous. I hear a lot of things about being against witches and hanging them because a witch shall not be suffered to live. Yet this Bible when it is talking about King Sol relates how he went to the witch of Endor to talk to ghosts, to talk to spirits and that comes from the holy Bible but you don't believe in witches. You don't believe in seances to talk to ghosts. Then you must excise that and there are a lot of religions which are very arrogant and disdainful toward others. If they would talk about or try to talk about the religion from the land from which people of my complexion would hail, they would want to laugh at it and say it is an example of the savagery and barbarism of these people. Why? Because they believe in vampirism. They believe in cannibalism. They believe in zombies. Well here is what I do. I look at the various religions around the world and I see these elements everywhere. The central charac....what is a zombie first of all? A revived corpse. The central figure in Christianity is nothing but a revived corpse. There is your zombism in your western religion. You make fun of my kind because you say we believe in vampirism or drinking blood? What is the sacrament? "Drink this ye all of it and as often as you do, you remember Me. It is My blood." There is your vampirism in your western religion. And where does the cannibalism come in? What is cannibalism? Consuming human flesh. Take the bread, eat ye all of it. It is My flesh." So all of the religions have the same threads but because you have been taught to be arrogant and look down your nose at everybody else while pointing one finger at everybody else, three point back at you. Do you know what the Christian faith was doing in the early days of this country? Condemning people

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for having lightning rods on their house and Benjamin Franklin is the one who invented it. If God wants to strike a house no man should have the audacity to intervene by erecting a lightning rod.

SENATOR WESELY: You have one minute left.

SENATOR CHAMBERS: They condemned the sewing machine. This is religion. This is what we are turning children over to. If the parents want to do that on their own time, let them. But the state has a solemn obligation. I know what religion is because I went through it and were I not an extra strong individual, somehow had the perception to see through this nonsense even as a child, I would be tottering around here like an alcoholic or a drug addict like so many of my friends are who came up through church as I did but they were not blessed, if that is the word you want to use, to have eyes to see through it and understand how damaging and destructive it is and because of what I saw as a child and experienced as a child I want to protect children from those types of influences and if they cannot be completely protected, at least offer the possibility of an antidote.

SENATOR WESELY: Your time is up, Senator Chambers.

SENATOR CHAMBERS: And if I must be burned at the stake, I say bring the faggots and light the fire. A faggot, by the way, is a piece of wood that they burn people at the stake with.

SENATOR WESELY: Thank you. Senator Higgins.

SENATOR HIGGINS: I would like to call the question.

SENATOR WESELY: The question has been called for. Do I see five hands? I see five hands. Those in favor vote aye, those opposed vote nay.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Okay, record the vote.

CLERK: 25 ayes, 7 nays to cease debate, Mr. President.

SPEAKER MARVEL: Debate has ceased. Senator DeCamp to close.

SENATOR DeCAMP: Mr. President, if you noted I have not debated with you the merits of the issue. I have let Senator Stoney, Senator Dworak, one after another, I have waived to them to debate the actual merits. To my good friend Senator Newell and some of the others who kind of bit me, kind of

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privately here, we've had some conversations, Davy knows it, what I have offered and what I have done, simply the mechanical, if you want to call it the strategy, the motions to get to the issue so that a majority of this body who wanted to take up the issue would have the mechanical means of doing it. That is what I have done. For that, some of my good friends say, well you low life and so on and so forth. That is the method using the majority. You quite honestly now are using the methods of the minority. I don't condemn you a bit if you are using a filibuster or whatever but don't say Johnny is so bad simply because he offers a way through some of the mazes so thirty or thirty-five people who wanted to deal with this issue this year would have a chance. You now have, I don't know, eight, ten, fifty, four hundred motions. It was exactly anticipation of that why I had to pick a bill on Final Reading. Ernie understands it better than anybody. Had I picked a bill any other stage of the process, you would have control. Right? Right. This way it can only come back for a specific amendment, has to go forward. After that amendment or die there if it doesn't get enough votes and the burden is on you then to try to do anything further in terms of taking it back and Senator Landis was correct. From a strategical standpoint the majority in here would be foolish if they were successful now in advancing it if they didn't go ahead and move to adjourn because it then basically leaves your filibuster up to when the bill is read on Final Reading and I suspect the majority of the body, some of you will change your minds by then and decide one way or another that whether it is the last bill to be read on Final Reading or whatever, that it will resolve the issue then. But don't fault me so much for simply offering a procedural method when you are doing exactly the same thing, exactly. I have never used a filibuster, never once. I have always mustered thirty votes or tried to do it that way. I don't fault you. Don't condemn me for simply offering Senator Stoney, Senator Kremer, Senator Peterson and half a dozen others in here who feel very intense about this issue, the opportunity to bring it before the forty-nine people that have the only power in the state at this time to do one single thing about this issue and if the vote now is twenty-five to advance it, it means at least twenty-five people, a majority of the body, have decided that they would like to take a temporary solution here until January until we can meet again and discuss it further, rather than closing down the schools immediately, rather than locking people up. That, I guess, since we want to get demerits now, that don't seem to me to be so bad, to look at it as a legislative body, June, July, August whenever, rather than just say, well the Supreme Court spoke and what did they speak on? Was it a law? Not really. It was an interpretation of law essentially by, I suppose Anne Campbell or who ever is head of the Department of Education, a rule,

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a rule. That is what is going to close all these schools down. We are just saying six or seven months of time to look at the issue a little more fully. I would urge you to advance the bill and then I would kind of hint we ought to go home.

SPEAKER MARVEL: The motion is to readvance the bill. Do you want a machine vote? Okay. All those in favor of readvancing the bill vote aye, opposed vote no. Do you want a record vote? Okay. Have you all voted? Okay, record the vote.

CLERK: (Read record vote as found on pages 2241-2242 of the Legislative Journal.) 26 ayes, 15 nays, Mr. President, to advance the bill.

SPEAKER MARVEL: The motion is carried. The motion is readvanced. Senator Vickers, for what purpose do you arise?

SENATOR VICKERS: Mr. President, I would move we adjourn sine die.

SPEAKER MARVEL: Okay, it is not a debateable issue. All those in favor of adjourning sine die vote aye, opposed vote no. Do you have the board cleared? Sine die means we are all through. Pardon? Sine die means that the session is over. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Do you want a record vote? Okay. Record the vote.

CLERK: (Read record vote.) 2 ayes, 39 nays, Mr. President.

SPEAKER MARVEL: Motion lost. Senator Peterson.

SENATOR H. PETERSON: Mr. President, I would move we adjourn until nine-thirty Tuesday morning, please.

SPEAKER MARVEL: Do you have a motion on the desk? Read the motion.

CLERK: Mr. President, Senator Chambers moves to reconsider.

SENATOR CHAMBERS: Mr. Chairman, since I have been recognized Senator Peterson will be able to make his motion to adjourn as soon as I get through speaking but as the rules say, once a person is speaking that person must be allowed to continue and since the business that all of you are interested in is concluded, there really isn't any need for you to stay here until five fifty-seven but the reason I think we ought to reconsider that vote is because all of the meaningful business of the Legislature is completed. The budget bills have been passed.

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It is clear that in the same way that I read about the hag being astride to take her ride and nothing was going to change that, no vetoes will be overridden because the marching orders have been given to everybody. So, since we are in a position where no legitimate business remains for the Legislature, since we have already seen the merger and blending of the Governor's office with the Legislature with the Governor coming out as the dominant force, there is nothing left except for the Governor to have complete victory which he has already won. There is not a bill left that has to be passed this session, not one. If we were to adjourn, I'm not saying there are none that are desirable, there are a lot of bills that we desire to have passed. I even have one. It is on radar but naturally that is gone and has been gone, left in the dust. But if you would think about it, with four legislative days left the amount of time that will be consumed, the electricity, the energy that will be lost, unfortunately hot air cannot be converted into a usable form of energy yet or we could kind of have a set off, but we would not have to amend any more bills, have them reprinted, brought back up, sent down for reprinting again. So, I think we ought to reconsider the very wise and appropriate motion made by Senator Vickers. Two voted in favor. I also did but it was necessary to forsake the position I believed in in order to be in the position I am now which is to further ingratiate myself with my colleagues in the Legislature. Why should we stay here? There is no need for it. Bitternesses will be engendered and deepened. Hostilities will increase. The Legislature will be further browbeaten by the Governor. The A.G. or actual Governor, Paul Douglas, will be continuing to make threats to the senators and one indirectly convey to me that if I try to do anything about our expenses, he the actual Governor, Paul Douglas, is going to cut off all the expenses to the Legislature during the interim. Now what kind of threatening is that? And if the Legislature knuckles under to those kind of things, we are not worthy of the name. So, why don't we salvage one shred, one shred of dignity by throwing in the towel at this point and not allow four more days to heap up additional contempt for and upon the Legislature. We know that everybody is afraid of the Governor or enough are afraid to do whatever he wants. He can run the state without us being here. He would be glad if we are not here. It makes his job easier. He wouldn't have to be calling people out to the hall, get on out here. I want to talk to you. Get on in there and do that. Then you've got to hang your head and run on in here and do it. Then you want to tell people that we are not a bought Legislature. We have been controlled all session. This is the one opportunity to break it. Let us do what no Legislature in my recollection has done. The conservatives who want to save money can do that. We will

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get out four days early. Now Senator Peterson has been standing there dutifully holding that microphone and he could sit down and I wouldn't try, Senator Peterson, to slip anything in. Senator Peterson, I wouldn't try...I thought maybe you had gone to sleep, I wouldn't try to slip anything in before he could offer his motion to adjourn but while everybody is in a jovial mood, I won't take all of my time. In the spirit of compromise and togetherness I am merely going to tell you that my motion is that we reconsider our precipitate vote in turning down Senator Vickers' motion to adjourn sine die. I hope that at least twenty-four of you will join me in this endeavor. Thank you very much.

SPEAKER MARVEL: The motion is to reconsider the adjournment to close up shop. All those in favor of that motion... The Chair recognizes Senator Peterson.

SENATOR H. PETERSON: Mr. Chairman, I would move we adjourn until Tuesday at 9:30 a.m.

SPEAKER MARVEL: We've got about eight lights, Senator Higgins.

SENATOR H. PETERSON: Mr. Chairman, I believe the motion to adjourn takes precedence over all other motions that are on the floor. Am I not correct?

SPEAKER MARVEL: The Chair will rule that Senator Peterson's motion takes precedence. All those in favor, what was it, until two o'clock Tuesday?

SENATOR H. PETERSON: Until nine-thirty Tuesday.

SPEAKER MARVEL: Okay, all those in favor of Senator Peterson's vote, motion vote aye, opposed vote no. Pardon? Record the vote. A record vote has been requested. It is your turn. Shall the House go under Call. Just a moment, shall the House go under Call? All those in favor of placing the House under Call vote aye, opposed vote no. Senator Nichol, for what purpose do you arise?

SENATOR NICHOL: Mr. Chairman, I would like to debate the fact that whether Senator Higgins is assertive enough or not. I think she is too.

SPEAKER MARVEL: Okay, record the vote.

CLERK: 7 ayes, 26 nays to go under Call, Mr. President.

SPEAKER MARVEL: The request for a record vote, the Clerk will read.

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CLERK: (Read record vote as found on pages 2242-2243 of the Legislative Journal.) 33 ayes...(interruption.)

SPEAKER MARVEL: For what purpose do you arise, Senator Chambers?

SENATOR CHAMBERS: This is in seriousness now. I asked for a Call of the House which was not recognized. Then a vote on something or other was taken. That vote, whatever it was for, was not read so apparently it was no vote. A Call of the House was allowed and a vote taken on a Call of the House. Well it is obvious that we could not have been adjourned at that point, otherwise there could not have been a Call of the house so we are not adjourned. There cannot be business after a vote to adjourn so we were not adjourned. We are not adjourned now.

SPEAKER MARVEL: The Chair announces that we are adjourned. (Gavel.)

Edited by:

Marilyn Zank  
Marilyn Zank

May 26, 1981

LB 472A

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer this morning by the Reverend Jerry Leever, Belmont Baptist Church here in Lincoln.

REVEREND JERRY LEEVER: Prayer offered.

PRESIDENT: Roll call. While we are waiting for the members to register their presence for a quorum, the Chair would like to introduce from Senator Labeledz's District 17 Seventh and Eighth Grade students and two adults from Zion Lutheran School in Omaha, Mr. Ron Udy, teacher. They are in the north balcony. Would you welcome Zion Lutheran to our Legislature? Welcome. Record the presence, Mr. Clerk.

CLERK: Quorum present, Mr. President.

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

CLERK: Mr. President, one minor correction. On page 2220, line 29, strike "Review" and insert "Engrossment".

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

CLERK: One brief item, Mr. President. Your Committee on Enrollment and Review respectfully reports that they have carefully examined and engrossed LB 472A and find the same correctly engrossed. That is signed by Senator Kilgarin as Chair. That's all I have, Roland.

May 24, 1981

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

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

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

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

CLERK: Mr. President, the motion is to advance LB 243 to E & R for engrossment. (Read roll call vote as found on pages 2266-67 of the Legislative Journal.) 25 ayes, 20 nays, Mr. President, on the motion to advance the bill.

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

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

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

SENATOR CLARK: LB 216.

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

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

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

SENATOR CLARK: Senator Kilgarin.

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

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



May 28, 1981

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

PRESIDENT LUEDTKE PRESIDING

DR. ROBERT PALMER: Prayer offered.

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

CLERK: Quorum present, Mr. President.

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

CLERK: I have no corrections, Mr. President.

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

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

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

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

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

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

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

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

January 7, 1982

LB 215, 472A, 694-697

SPEAKER MARVEL: The Clerk has some items to read in.

CLERK: Mr. President, new bills. LB 694 (Read title). LB 695 (Read title). LB 696 (Read title). LB 697 (Read title).

Mr. President, Senator Fenger would like to print amendments to LB 472A in the Legislative Journal.

Mr. President, Business and Labor Committee chaired by Senator Barrett announces that Senator Wiltala is selected as Vice Chairman of that committee.

Mr. President, your committee on Public Works gives notice of hearing in Room 1517 ofr next Friday.

And finally, Mr. President, the Executive Board will have a reference meeting underneath the North balcony at three-thirty this afternoon, Reference Committee at three-thirty underneath the North balcony.

SPEAKER MARVEL: The next item of business is LB 215.

CLERK: Mr. President, LB 215 offered by Senator Chronister. (Read title). The bill was originally read on January 15, 1981, referred to the Judiciary Committee for public hearing. The bill was advanced to General File. There is a committee amendment pending, Mr. President.

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Speaker, members of the Legislature, this is simply the emergency clause. The district courts in the State of Nebraska currently have the statutory authority to terminate parental rights as part of the divorce proceedings. However, in a recent case the Supreme Court said there was not adequate guidelines for the termination procedure. Because the district court's authority to terminate parental rights is now unclear, the committee felt that the bill should be moved as quickly as possible. For this reason we are asking that the emergency clause be added to the bill.

SPEAKER MARVEL: The motion is the adoption of the committee amendment as explained by Senator Nichol. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record the vote.

January 11, 1982

LB 472A, 764, 765.

RECESS

SENATOR CLARK PRESIDING

SENATOR CLARK: The Legislature will come to order. Everyone check in please. Will everyone record their presence, please. Senator DeCamp, will you record your presence, please. Has everyone recorded their presence please? The Clerk will record.

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

SENATOR CLARK: The first thing we're going to take up is... you have some things to read in. Go ahead.

CLERK: Mr. President, new bills: (Read by title for the first time, LBs 764, 765 as found on page 219 of the Legislative Journal.)

SENATOR CLARK: The first thing we will take up is the return of LB 472A to committee from Final Reading. Senator Koch.

SENATOR KOCH: Would you read the motion, Mr. Clerk?

CLERK: Mr. President, Senator Koch on behalf of the Education Committee and it is signed by Senators Wiitala, Goll, Hoagland, Vickers, Kremer, Beutler and Lamb, move that pursuant to Rule 6, Section 8, part (b) the Legislature recommit LB 472A to the Education Committee for the purpose of a public hearing.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Thank you, Mr. Chairman. As...if you'll allow me I'll recap the history of 472A. 472A was an Appropriations bill that was introduced by Senator Hoagland and last session, late in that session, we were involved in the issue of offering the alternatives for Christian education to function in the State of Nebraska within the law. As you recall, we argued first of all on germaneness of the subject to 472A. Second then, we argued to some degree over whether or not the body of that bill had had an appropriate hearing under the standing committee of this Legislature. In both cases it was not germane possibly and, secondly, it did not have a public hearing. Since the committee has two bills before it at the present time which will be heard next Tuesday, those bills are LB 607 and LB 652, one is a committee bill and one is a bill introduced by Senator Peterson and possibly several others on this floor both dealing with Christian education. Rather than for us to be sitting here with 472A on Final Reading with approximately seventy-six amendments, it is appropriate that we take

this action, rerefer it to the Education Committee to be heard next Tuesday in light of the subject of Christian education. I think that is to fairness to the Legislature and fairness to those who have interest in Christian education. I want to assure the ministers and others who are in the lobby today, on behalf of this Education Committee, I will guarantee its integrity that we intend to come from that committee with some legislation that will hopefully be palatable to all interests as it relates to the private sector and the public sector and to the compelling interests of this legislative body. Therefore, I request that we rerefer the bill today so that we can schedule it for an appropriate hearing next Tuesday in the afternoon on the subject of Christian education and what kinds of alternatives this state might allow under the present law. Thank you.

SENATOR CLARK: Senator Beutler and then Senator Kremer. Senator Kremer.

SENATOR KREMER: Mr. Chairman, members, very briefly I'd like to support Senator Koch's motion to return 472A. I, too, guarantee to the best of my ability, whatever a guarantee is worth, that this committee is sincere in what we are attempting to do in dealing with our Christian schools in the State of Nebraska. All of us are sympathetic to convictions and I think all of us have a real desire to bring about a solution that will be reasonable and will be acceptable to all involved, including those that are involved in the school and those of us who have a deep interest in schools of this nature, that we've long had it, and I've often said I would give my life for the right for one to exist. How much authority the state should have in the operation of a school like that is debatable and also questionable in some cases. This, I don't like to call it a controversy, I guess it amounts to about that at this point and it has spread far beyond the limits of our state. We are getting letters from states clear across the nation from east to west because there is a concern, and believe me, I will do my best to resolve the issue and lend my time to see if we couldn't reach some agreement. As Senator Koch has indicated there are several other bills that are forthcoming perhaps more than two and I trust that we will come out with a bill to be offered on the floor that will be reasonable and solve the problem at hand. In no way we're trying to persecute these schools that some letters I am getting at least use the phrase that "you're persecuting" our Christian schools. That certainly is not my intent and I doubt it is much of anyone else's. So I do support because we agreed in committee the resolution to move this bill back to committee and treat it along with the other bills that are



being introduced and hopefully we can come up using any number of us that may be there as a vehicle with something to resolve this issue at this time.

SENATOR CLARK: Senator Beutler, did you want to talk on this?

SENATOR BEUTLER: Yes, Mr. Speaker, members of the Legislature, I, too, would like to support Senator Koch's motion. Without even getting to the substance of the issue, how you may feel one way or another on the philosophy of the exemption of the Christian schools, I just want to remind you that 472A is a bad piece of legislation just in a technical sense. It was a quickly, hastily pieced, hastily put together piece of legislation that we suspended the rules to adopt on Final Reading and there are at least fourteen different major technical problems with the bill. And just to give you a sense of some of the types of problems we're dealing with and to give you a sense that they're not small problems but large problems, I wanted to talk just a minute about a couple of them. As you may recall 472A was basically designed to exempt the schools from curriculum and teacher certification requirements and then it tried to put it into place a kind of a quasi testing requirement and it stated that each parent or guardian of a student attending a certain kind of Christian school would file a notarized affidavit saying that their child was in that school and then on later in the bill it says that in asserting inclusion in the exemption, that is when they file this affidavit, the parent or guardian may be required to demonstrate to the State Department of Education certain things, that the child is receiving regular instruction, that the instruction is from a structured curriculum or course of study and that the child is appropriately proficient in basic disciplines of learning. Now the supposed testing requirement in 472A comes from this language but there are a number of problems. First of all, the State Department of Education is not mandated to set up any sort of testing requirement. It says, they may require the parent or guardian to demonstrate these things. Secondly, it actually doesn't say anything about a test. It just says that the parent or guardian has to demonstrate these various items. Now it is presumed that the best way to demonstrate that would be some kind of a test but it is also equally arguable under the language of the statute that some sort of affidavit from some education expert who has seen the child or talked to the child may be an appropriate kind of demonstration. So the bill is not clear as to exactly the type of demonstration that is required. Let's assume for the moment that the demonstration is some sort of a test. The next big

important thing that is unclear in the bill is what kind of a test and whose test. There is no standard test that is given to all school children in the public schools in the State of Nebraska today. So we would get into many arguments over what kind of test and of course along with what kind of test, what kind of standards or what kind of criteria are going to have to be met by the children in these schools. No wonder the technical flaws of the bill, and this is very technical but very important, has to do with the fact that this whole requirement for testing is applicable at the time that the exemption is claimed. So as I read the bill, technically speaking, that testing requirement can be required just once. There is no requirement that there is any testing on an annual basis and it is very arguable that under the bill no such requirement could be imposed upon those schools for any sort of annual or even biannual review of how the student is doing. The affidavit of exemption that is required to be filed by the parents under the bill is only a one time filing.

SENATOR CLARK: Y have one minute left.

SENATOR BEUTLER: At any point in time after that initial filing there is no requirement that they file again. They don't have to file again after one year or two years or three years and consequently there is nothing in the statute that gives the Department of Education the authority to test two or three or four years down the line. So all I am saying to you is that even the testing requirement in the bill is vague in a half a dozen different ways and that is the most important provision of the bill. So I think it would be a discredit to ourselves to pass a piece of legislation like this which is sure to end up with a number of questions to be litigated. Thank you.

SENATOR CLARK: Senator Stoney.

SENATOR STONEY: Mr. President and members of the Legislature, I rise in opposition of the proposition to return this bill to the Education Committee for additional hearing. I do know that there are propositions that have been offered before this Legislature that will be heard by the Education Committee but for those of you who were here last year, you will recall the reason that we took the action that we did. That was because there was an immediate and critical problem and to date, ladies and gentlemen, that problem has not been resolved. I need not go through the litany of what brings us to this point in time relative to this particular issue but I would like to say that I think that the Education Committee with the propositions that

it has before it can consider this subject further. We know during the interim that hearings were held on the subject and still we have no resolution to the problem. So I'd feel much more comfortable if LB 472A is bracketed let's say on Final Reading so that we know that we do have a vehicle during the 1982 session to address this subject if indeed it is to be addressed. My only fear is that if the bill is returned to the Education Committee and a consensus is not reached by a majority of that committee then we will be no better off than we have been over the past year in attempting to come to a solution of this most difficult problem. So I see no danger in bracketing the bill at the present time where it is and if as Senator Beutler says there are flaws and deficiencies in this proposition, I'm sure the Education Committee in its wisdom and the members of this body collectively can offer amendments to that proposition that will address the issue and hopefully meet with the conflicts and controversy that exist by both the advocates and adversaries of this proposal. So at this point in time I would sincerely ask that you not honor the request to return the bill to the Education Committee for a hearing but rather allow them through the hearing process to hear the other propositions and leave this bill in place so that there can be a vehicle if at all necessary during this very short sixty day session to address this issue once and for all. Thank you.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, I know it's kind of a slow afternoon but I guess I would still beg your indulgence, kind of listen and fear not, I'm not going to try to save the Amish or the Mennonites or the Christian schools. I guess I figure if they and God kind of working together haven't got her done yet, who am I to try anything. I've tried to find out why 472A, which is the Christian school bill, has to go back to committee and I have learned from any number of individuals and I guess it has been publicly stated repeatedly that the reason is very simple. LB 472A is a tarnished bill and we know it is tarnished because the education people have repeatedly told us that it is tarnished and because it is tarnished we have to return it. I guess that tarnishing is a pretty serious crime when it comes to legislation here. I guess I've been asked also why continually keep trying to defend these Christian schools and try to come up with something that will keep them in existence, keep the Mennonites in the state, keep the Amish from being driven out and my reason is quite simple. I've kind of come to the conclusion just because somebody looks a little different or dresses a little different or thinks a little different shouldn't mean they should be run out of business as long as



they aren't particularly hurting you or doing something to damage you. Now I have tried to find out how 472A got tarnished so I can maybe hopefully avoid this tarnishing in the future because tarnishing obviously is a pretty serious crime in here and I found out there was the conduct, it was the conduct of people like Pastor Siliven, it was the conduct of people like the Mennonites and the Amish, so on and so forth and I didn't understand it quite frankly but I've been led to believe that they're tarnishers. For example, when they went and locked the church of the one group with padlocks and chains they didn't throw any stones, they didn't resist, they didn't fight, they just let their church be locked up. I guess I'm so dumb I'd think if somebody came and tried to lock my church, I'm a Catholic, I've got no things to hide there, I'd be there with a pair of bolt cutters. I wouldn't have taken it but they accepted it. I guess then they tarnished things further because they had Jerry Falwell and some others here when he infuriated some people. So that contributed to the tarnishing. And the Mennonites when they had their buggy taken away and when they decided to just leave the state rather than keep trying to keep their schools open, I guess I thought that was kind of foolish on their part. I would have tried to stay and fight but I guess their leaving and their doing all this helped to tarnish 472A. Now don't get me wrong. I'm not questioning that 472A is tarnished because we have been told it is tarnished. We've been told by the Education people that somehow 472A is tarnished and that is why it has to be kind of put to bed but for those who were here last session I would remind you of just a few things that happened last session. Number one, they followed every rule possible in dealing with their legislation including repeatedly suspending the rules rather than just trying to say this is or isn't germane, they suspended the rules repeatedly. They let everybody have their debate. Somebody stood up a while ago and said, well there is seventy-six amendments up there on the bill. Those seventy-six amendments are from the people that say the bill is tarnished. They weren't put up there by the Christian school people.

SENATOR CLARK: You have one minute left.

SENATOR DeCAMP: The Christian school people were promised come January everything will be taken care of, come January there will be a bill. Well if you've read the bill that's been introduced it would close everyone of them down even faster than existing law. Don't take my word for it. Go read the bill. So at some point I can see why maybe they have a little doubt as to the credibility of this body because we keep promising and doing the opposite. So I guess 472A is supposed to be tarnished and maybe indeed it



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is but I still can't vote to return it to committee until there is some direction by that committee that they really have some substantive bill they are going to put out on this floor and I can't see the harm of leaving 472A up as some kind of a credibility device. Indeed, 472A may be tarnished but I question whether maybe the tarnishing isn't more from this body than from anybody else.

SENATOR CLARK: Senator Howard Peterson.

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

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

CLERK: Senator Clark voting yes.

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

SENATOR DeCAMP: Mr. President, I'd suggest since we're going to obviously have a Call of the House before it's all done anyway, get started now so I ask for a Call of the House and finish up this vote.

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

CLERK: 13 ayes, 0 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All unauthorized personnel will leave the floor. All senators will return to their seats and check in please. Senator Beutler, Senator Pirsch, will all you people check in please. Senator Lowell Johnson, will you check in please. The motion before the House is to cease debate. Any of those wishing to vote on it can vote.

CLERK: Senator Higgins voting yes.

SENATOR CLARK: The motion before the House is to cease debate. Is there anyone else that wishes to vote on ceasing debate? If not, record the vote.

CLERK: 21 ayes, 11 nays, Mr. President, to cease debate.

SENATOR CLARK: The motion lost. Senator Chambers is next.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I will be brief. I have mixed emotions about whether this bill should be returned to the committee for reasons that might be different from some people who are in the Legislature. If there is to be a public hearing on the entire issue maybe it doesn't make any difference if this bill stays out here or not. Then the Legislature as a whole will be forced to come to grips with this issue. Now I have stood virtually alone on the issue of whether there should be prayer in the Legislature but I have had others come to me on the quiet and say they share my point of view and I notice when I do stumble through like I did this morning I saw Senator DeCamp with his head bowed in meditation or prayer or whatever but there was a great vacancy throughout much of the Chamber so I want to see just how much religion, genuine religion, Christianity or however you want to label it in this body and I think a good way to find out is to debate this bill, up, down, inside out, front to back, north, south, east and west and we discuss things like what I see in this booklet that is used in some of these schools for Social Studies. One of the questions, "Are the Jews still God's chosen people?" Now that would be a very good matter for discussion because one of the Fundamentalists said Jews can't even be saved. So maybe the ones who say Jews can't be saved think Jesus is God but maybe the Jews feel that the father of Jesus really is God who is Jehovah so they can be saved and the Christians can't and I think we ought to go into all of those issues and determine just what the nature of this Christian education is, then find out why it seems to have no impact whatsoever on anybody's life. We can also discuss whether or not facts are taught in those schools. Here is what is purported to be a fact. Last year the Legislature gave recognition to Martin Luther King. I hope it was only because of a lack of knowledge that the Legislature made this special recognition of a man known to be a disciple of Marxism, a man dedicated to violence and the undermining of our society, this year recognized some real American such as Joseph McCarthy or General Douglas McArthur or George Washington Carver, real Americans who did much to make America great. These are things which, if they're circulating out there and the children are being taught these things, the Legislature perhaps should give scrutiny to it. Now the reason I could never follow along with the things Martin Luther King taught was because he was the opposite of what this paper says. He was the one, not a disciple of Marxism, but a disciple of all the weakest traits in Christianity. King lived the concept that if somebody spits on you you don't revile them. If he takes your coat, you give him your cloak. If he forces you to walk one mile, walk with

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him twain. If he smites you on the one cheek offer him the other also. So they cannot even get the facts of this generation correct, how much might they be distorting history and if children are a product of what they are taught, maybe its coming clear to me now why there is so much racism in this society.

SENATOR CLARK: You have thirty seconds left, Senator Chambers.

SENATOR CHAMBERS: But perhaps it is not a conscious deliberate thing but rather one of those things which is ingrained. It is conscious on the part of those who teach but perhaps not those who receive so I think this session I want that Christian bill out here and for the time being I'm not going to vote to return that bill to the committee.

SENATOR CLARK: There is a motion on the desk.

CLERK: Mr. President, Senator Stoney would ask unanimous consent to bracket LB 472A until March 15, 1982.

SENATOR CLARK: Is there any objections? If not, so ordered. Senator Hoagland, did you object?

SENATOR HOAGLAND: Would you read that again please.

CLERK: The motion, Mr. President, is a unanimous consent request to bracket LB 472A until March 15, 1982.

SENATOR CLARK: Are there any objections? Senator Koch.

SENATOR KOCH: I object.

SENATOR CLARK: All right.

CLERK: Mr. President, Senator Stoney would then move to bracket LB 472A until March 15, 1982.

SENATOR CLARK: Senator Stoney, did you want to talk?

SENATOR STONEY: Mr. President, I'll make it brief. I've covered my reasons earlier when I addressed the body. I really see no valid reasons for returning this bill to the committee for what has been expressed as an additional hearing. I do believe that it can be a vehicle and quite frankly, ladies and gentlemen, if the bill is returned to that committee I really think that there will be no real good reason to have to act on this issue and that is my fear and that is my concern. Now bracketing the bill to March 15 would give sufficient time if people seriously



wish to address this issue in this body. There is no design for establishing that date. It would just give us sufficient time to meet the deadline that we have within this rather short session. So, again, I see no incentive whatsoever if this bill is returned to attempt to conscientiously address this issue and, ladies and gentlemen, that is my only fear and for that reason I would ask that you join me in bracketing this bill until March 15, 1982. Thank you.

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. President and members, I haven't spoke on this issue before but I think it is time that perhaps I let be known my feelings. The Education Committee as a group, all eight members, agreed to enter a bill dealing with this subject, dealing with this issue. Now in spite of what Senator Stoney indicates I don't believe that that indicates a desire by the Education Committee to not deal with this issue in this session. The Education Committee also as a group, all eight members, signed the motion to return LB 472A to the committee, the feeling being that if this body wants to use up a lot of its time in this sixty day session debating this issue, then I think you are getting a taste of it right now. It is going to be much, much debated. As Senator Chambers pointed out there is going to be many things brought up. It is going to take days and days to resolve the issue. I guess I personally object to the indication by Senator Stoney that the Education Committee is trying to get this bill back so we can not do anything with this issue this session. I don't think that is true at all. If that was the case we wouldn't have introduced a bill. The idea was that we got this bill back to the committee and that the committee after public hearing, after listening to the people which this bill hasn't had a public hearing on by the way, then the committee could advance a bill so that there would only be one bill out here before the body to be discussed and obviously the body would be capable of amending that bill in any way shape or form that they so desire as it is with any other bill. But I think it would be ridiculous to assume that the Education Committee has introduced a bill that we've introduced and then leave this other bill out here as a club over our head, if you don't come out with this bill in the fashion that we want it, we're going to go ahead and have this bill that is out here on the floor. That is basically what we are being told here today and I object to that. I think the issue should be thoroughly

studied and thoroughly come out here with a bill that could be addressed by the entire body and not have two or three dealing with the same subject. But if it's the wishes of this body to spin its wheels and kill a lot of time on this issue, then I guess you leave this bill out here because that's exactly what's going to happen and we all know it.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I don't really see the significance of Senator Stoney's motion because if the bill is bracketed as in the present state with all those amendments, there wouldn't be enough time left after the date that it would be unbracketed to deal with it anyway on the floor. On the other hand, if a majority of you feel that the bill should be out here in one form or the other even if it goes back to committee should it be bottled up, you can make a motion to pull it from the committee and there could be the public hearing. But actually, why do you need a public hearing or anything else? This is one of those issues where argumentation and discussion is not going to change anybody's point of view. Whether or not the bill is passed will depend on the political climate at the time we vote on it. So if it's delayed to hope for a better political climate, I could then understand. But from the standpoint of the operation of the legislative process, I don't think it makes any difference whether it's voted on whenever it comes up on final reading, based on where it is now and we try to go through all those amendments or whatever, or bracketed until whenever Senator Stoney wants it bracketed, then delay it till past the end of the session at that point, or if you let it go to committee and it's heard with all these other bills that supposedly touch on the subject. I just don't know what the interest of the body is. You always know where I stand on these issues. I don't know where you all stand. I don't know whether we're dealing in politics this afternoon or legitimate concern for these people who run these Christian schools. I tend to doubt whether it has anything to do with the Christian schools. But I try to sit here as an outsider, wearing devil jeans, and see how the Christians handle it; and then maybe if your direction looks wise, I'll follow you out of the wilderness into the swamp.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman and members of the body, it's fascinating to listen to the rationale of the various people. Senator Chambers, the committee is not trying to be political. The committee spent hours on this subject, very consciously, very concerned, and we have taken more heat than anyone in this

body has. If you don't believe me, look at my file, thousands of letters. This committee is dedicated to bringing a bill to this floor. If you want 472A and the Christian ministers want it, then so be it. There is a sunset on that bill, June 30, 1982. Mr. Siefkes and myself and other members, Senator Beutler, have looked at all laws of this nation as it relates to Christian schools. You can go all the way to the ridiculous to something which is reasonable. The ridiculous would be to have North Carolina law with no compelling oversight over any school system which says it has religious convictions. What we are attempting to do in good faith and with the Christian feeling, if there is such a thing, is to hold a hearing on ideas as it relates to Christian schools and all interested parties and bringing to this floor as soon as possible legislation which we believe will help the Christian schools survive and function in this state, not only the Christian schools but the Amish, the Mennonites, the Seventh Day Adventists and others and I am surprised at the naivete of the astuteness of those who minister under the Christian schools. We're not going to submarine this, we're going to bring you a piece of legislation which we think we can sell with 25 votes. I feel more confident than ever now since the Governor has already approved one in spite of the fact we've never had a hearing. We're asking you, and we're not going to bleed, we're asking you to return this bill so we can hear it a week from tomorrow in a context of ideas that are being advanced and hopefully we can come out with a bill which will meet the intent and purposes of all your interests and the interests of the committee who deals in educational issues and to Senator DeCamp, the word "tarnished" was a little bit overused today.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: I'll just call the question.

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

CLERK: Senator Clark voting aye.

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

CLERK: 27 ayes, 8 nays to cease debate, Mr. President.

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



SENATOR STONEY: Mr. President and members of the Legislature, again I would just say that I see not a thing wrong at all with bracketing this bill so that we do have a vehicle if this body collectively, seriously wants to address this issue. Senator Chambers questioned why I would bracket it to a certain date. I'm just attempting to maintain the bill here on the floor over the attempt to return it to the committee and I think that there will be sufficient time for us to address it if we do it in a rational and objective manner. Senator Vickers was concerned that I was impugning the integrity and the credibility of the Education Committee. Well, ladies and gentlemen, the committee has dealt with this issue during the interim and they have indeed, as Senator Koch has advised you, offered a proposition on behalf of the committee to address this issue. Ladies and gentlemen, it does not help the fundamentalist, the Christian school advocates but it is more restrictive than the present laws in the rules and regulations that govern Christian schools. So the point that I make, if we are talking about credibility and integrity and truly addressing the issue for yes, a very small minority of Christian individuals who wish to train and educate their children in this fashion, I guess I would question whether or not we are attempting to find a resolution to this problem that will serve this small minority. I think all of us, ladies and gentlemen, are here to represent all the constituents in the State of Nebraska, not just those who are in a majority but those that are in a minority and these people indeed are. So I see no reason whatsoever, the vehicles are in committee, they can be studied, it can be tested against or they can be tested against if offered to the floor to be considered collectively the provisions that are encompassed in LB 472. So there is no reason whatsoever to return this bill. I think the incentive again will diminish greatly if this bill is returned to that committee and I don't think that we'll seriously attempt to resolve this issue on behalf of those who advocate Christian education in their schools. Please help me in bracketing LB 472 to March 15, 1982. Thank you.

SENATOR CLARK: The question before the House is the bracketing of LB 472A until March 15. All those in favor vote aye, those opposed vote nay. It takes 25 votes. Have you all voted? Have you all voted? Senator Stoney.

SENATOR STONEY: How many members are excused?

SENATOR CLARK: Five. Record the vote.

CLERK: 15 ayes, 25 nays on the motion to bracket, Mr. President.

SENATOR CLARK: The motion lost. We're back to the original motion, returning it to committee by Senator Koch. Is there any further debate? Senator Vard Johnson.

SENATOR V. JOHNSON: Thank you, Mr. Speaker, members of the body, I do want to make a comment with respect to sending the bill back to committee and it is a comment which I do think deals with basic fair play and with the democratic and legislative processes. I have received a number of letters as have all of you with respect to the Christian education issue. Some of the writers when they write me specifically say, "Please support 472A." Other writers when they write me state, "Please free Christian schools from unreasonable state restraints." Other writers when they write say, "Please see that the Education Committee develops a responsible solution to this problem." Now in all honesty I find it somewhat difficult to respond to the writers because I personally think that the Legislature itself is still in the process of developing an appropriate resolution of the Christian school phenomena and because we have so many different measures and thoughts and concepts at various stages of legislative presentation, there is a considerable amount of confusion on the part of the public as to what to support, what to oppose, what position to take and at what point in the debate. Now it strikes me that you and I have been exposed to about a year's worth of discussion and debate on the subject and so too has the public and that what we should do to ensure a fair colloquy, a fair exchange of ideas and to assist in the development of the process is to make certain that virtually every legislative solution to this problem is at one stage and that is the committee stage. We have now heard from several members of the Education Committee all of whom have indicated a tremendous willingness to try to work to a respectable solution of the problem. It seems to me it's at the committee where all of our different measures and all of our different bills ought to be today. The committee ought to have the appropriate public hearing on every measure and every bill at one time. The committee ought to then prepare a solution to give to us so that the public will then know we're talking about one thing and one thing only and this is what the bill looks like and they either oppose it or they support it or they want it to be changed. But everybody then has one thing in common in effect to discuss on this issue as opposed to several different things and the only way that I can think of to get that task accomplished is to take 472A and send that back to the committee where LB 607 presently is, where the committee's bill presently is and where any other solution



to the situation will be and when all the bills start from the same starting place, subjected to the same public hearing process with the object in mind of arriving at a common solution, I think all of us...

SENATOR CLARK: You have one minute left.

SENATOR V. JOHNSON: ...and particularly the public itself will be the better for the process.

SENATOR CLARK: Senator Marvel.

SENATOR MARVEL: I would like to make some comments first. Then I would like to make a couple statements. What I am referring to secondly and then I will go back to the first item, there is in your book on Final Reading under 472A, there is a specific amendment to LB 472A and I would like to refer to some of the comments in regard to this specific amendment after I make one other point. I hold up myself as being one who understands religion and the reason I say that is that Senator Chambers and I had a peaceful, interesting debate about four or five years ago and it was a draw as far as the discussion was concerned in the area of religion. Now will someone who is on the prevailing side of 472A answer me a couple of questions and I am not trying to nitpick and I am not trying to be cute or anything else but I think this issue is serious enough that we ought to explore every avenue. I don't understand in the bottom part which would start in line 21, the second line 21. It says, "Each parent or guardian of a student attending such a school shall file a notarized affidavit with a county superintendent of schools acknowledging their child's attendance at a school which is exempt from the provisions and supervision of certain state laws, rules and regulations. A copy of the reports and notarized affidavits provided to the county superintendent shall be forwarded to the State Department of Education. In asserting inclusion in the exemption provided under this section, the parent or guardian," and this is where I get disturbed, "the parent or guardian may be required to demonstrate to the State Department of Education: (1) That the child is receiving regular instruction; (2) That the instruction is from a structured curriculum or course of study; and (3) That the child is appropriately proficient in basic disciplines in learnings". I do not understand exactly what you propose to do with this amendment specifically. Item (1), item (2), item (3), for it means to me that those who are interested in private schools have twice or three times the problem once this particular issue is brought forth. So that is about as far as I can go now and I do not see how that we can guarantee or those who are involved in this

can guarantee that there is regular instruction, that it comes from a structured curriculum or course of study and that the child involved is appropriately proficient in basic disciplines of learning. So I pose the questions to those who have studied this more deeply than have I and maybe this will help eventually determine what we should really do with that bill because I voted two or three times and I have not helped either side as far as that goes.

SENATOR CLARK: Is there any further discussion? If not, the question before the House is the return of the bill to committee, 472A. All those in favor vote aye. All those opposed vote nay. Have you all voted? Record the vote.

CLERK: 26 ayes, 8 nays on the motion to rerefer to committee, Mr. President.

SENATOR CLARK: The bill is returned to committee. We will now have the report from the Banking Committee on gubernatorial appointments.

CLERK: Mr. President, Senator DeCamp's Banking Committee reports favorably on a gubernatorial appointment, Mr. Calvin Coulter. That is found on page 177 and 178 of the Legislative Journal.

SENATOR CLARK: Senator DeCamp, do you want to say anything on it? The question before the House is the approval of Calvin Coulter for an appointment. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting aye.

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

CLERK: 40 ayes, 0 nays on approval of the report, Mr. President. (Vote found on pages 220-221 of the Legislative Journal.)

SENATOR CLARK: Mr. Coulter is approved. Senator Carsten, would you like to make an announcement on your treatment of medical doctors or something?

SENATOR CARSTEN: Thank you, Mr. President. Mr. President and members of the Legislature, once again this year it is my privilege and pleasure to bring to you a red delicious apple for your enjoyment from the grounds of J. Sterling Morton in Nebraska City and on behalf of the Arbor Day Foundation. We hope you will enjoy them and only make two requests from you in return for that apple,

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LR 215  
LB 211, 472A, 607, 789, 796,  
835, 845

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The motion before the House is the Newell proposal, the withdrawal of LB 211. He has closed. All those in favor of the motion vote aye, opposed vote no. Record.

CLERK: 30 ayes, 0 nays, Mr. President, on the motion to withdraw the bill.

SPEAKER MARVEL: The motion is carried. The bill is withdrawn. The Clerk has some items to read in.

CLERK: Mr. President, your committee on Education whose Chairman is Senator Koch to whom was referred LB 796 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; 845 General File; 472A indefinitely postponed; 607 indefinitely postponed; 789 indefinitely postponed. All signed by Senator Koch as Chairman.

Mr. President, I have a communication from the Appropriations Committee and signed by its Chairman. And I understand that the preliminary budget report of the Appropriations Committee has been distributed. That document will be filed in my office.

Mr. President, new resolution, LR 215, signed by Senators Warner, Lowell Johnson, Cope, Goodrich and Stoney. (Read LR 215 as found on pages 553 and 554 of the Legislative Journal). That will be inserted in the Journal and laid over, Mr. President, pursuant to our rules.

Mr. President, I have an amendment to LR 215 offered by Senators Warner, Dworak, Fowler, Rumery and Marsh. That will be printed in the Journal. (See pages 555 and 556 of the Journal).

Senator Wiitala moves to place LB 835 on General File notwithstanding the action of the committee. That, too, will be laid over.

SPEAKER MARVEL: The next order of business is a report of the Public Works Committee and the Chair recognizes Senator Wesely.

CLERK: Mr. President, the report is found on page 487 of the Journal.

SENATOR WESELY: Mr. Speaker and members of the Legislature, the Public Works Committee would like to recommend