

January 20, 1981

LB 3, 278, 468-489

CLERK: Mr. President, new bills. (Read LB 468-489 as found on pages 291-297 of the Legislative Journal.)

Mr. President, your committee on Urban Affairs gives notice of public hearing for February 4, 11 and 18, 1981.

Mr. President, the Business and Labor Committee would like to meet underneath the North balcony at 2:00 p.m.

Mr. President, Senator Chronister would like to have his name added to LB 3 as co-introducer.

SPEAKER MARVEL: No objection? So ordered.

CLERK: Mr. President, Senator Warner offers proposed rules change which will be submitted to the Rules Committee for their consideration. (See pages 298-300 of the Journal.)

Mr. President, Senator Wesely gives notice of Rules hearing scheduled for January 27.

Mr. President, Senator Hefner and Howard Peterson want to add their name to LB 278.

SPEAKER MARVEL: No objection? So ordered.

CLERK: Mr. President, I believe that is all that I have.

SPEAKER MARVEL: Senator Rumery, do you want to recess us until three-thirty?

SENATOR RUMERY: One-thirty?

SPEAKER MARVEL: Three-thirty. The motion is to recess until three-thirty. All those in favor say aye, opposed no. The motion carried. We are recessed until three-thirty.

Edited by:


Mary A. Turner

February 27, 1981

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

Senator Hefner reports 483 to General File.

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

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

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

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

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

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

March 27, 1981

LB 333, 483

SENATOR SCHMIT: Really, the major difference is the bulk milk hauler is a person like myself who drives a truck who moves the milk. He has no other responsibility.

SENATOR VICKERS: But isn't it indicating that they do not have to have that license in this bill though, Senator Schmit?

SENATOR SCHMIT: That is right. They are not licensed as they might have been with other responsibilities.

SENATOR VICKERS: But a bulk milk hauler does have to be licensed under this bill. Is that correct? I guess I am wondering why the hauler is even indicated, even listed in this bill over on the other page where it says "greater collector or hauler the license shall be \$25.00 and I am wondering why the hauler is even in there.

SENATOR SCHMIT: Well part of the business of transporting milk from the point of production to a processing plant is sometimes handled by a person, such as I said, any truck driver and they have no responsibility except to pick it up and move it. They do not come in contact with the product. It is not felt they are needed to be licensed. There is a difference in the degree of responsibility between the one and the other.

SENATOR VICKERS: But there is no discrepancy by having the word "hauler" over there on the other side of the page then? That is all right though in your opinion.

SENATOR SCHMIT: As far as I am concerned it is, yes.

SENATOR VICKERS: Okay, I just did not want to get in a situation where there was a question in the truck driver's minds as to whether they were a bulk milk hauler or a licensed milk hauler. I guess I was a little bit lost as to what the difference would be because as far as the truck driver was concerned, he was just hauling milk. Thank you for your response, Senator Schmit.

PRESIDENT: All right, seeing none other, we will proceed then. Senator Wagner, do you want to move the bill or close please? The motion is to advance LB 333. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 30 ayes, 0 nays on the motion to advance LB 333, Mr. President.

PRESIDENT: LB 333 is advanced to E & R initial. The next bill on consent calendar is LB 483.

March 27, 1981

LB 483, 12

CLERK: Mr. President, LB 483 was introduced by the Miscellaneous Subjects Committee and signed by its members. (Read.) The bill was originally read on January 20, referred to Miscellaneous Subjects. It was advanced to General File. I have no amendments on the bill, Mr. President.

PRESIDENT: The Chair recognizes Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I move the advancement of LB 483. This bill increases the amount of per establishment advertising from the wholesaler or the distributor to the retailers that hold a liquor license from a hundred dollars to three hundred dollars per year. It also excludes from the bookkeeping requirements the inexpensive paper items, advertising items and those under five dollars in cost. This is to eliminate a lot of the book work that retailers now have. The hundred dollar limitation that we now have became law in 1935 and this bill was brought to us and asked us to update this from a hundred dollars to three hundred dollars which I think is only fair in this day and age. The Liquor Control Commission had no objection to this bill and approved it. There was no other opposition at the hearing either. So I would urge you to vote for the advancement of LB 483.

PRESIDENT: Are there any other persons that want to discuss it? Okay, I guess your opening is your closing, Senator Hefner, so we will move...the motion is to advance LB 483 to E & R initial. All those in favor vote aye, opposed nay. Record the vote.

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

PRESIDENT: LB 483 is advanced to E & R initial. The next bill on consent calendar is LB 501. Senator Fenger is excused so we will pass over 501 and go to LB 12.

CLERK: Mr. President, LB 12 was offered by Senator Richard Maresh. (Read.) The bill was first read on January 8, referred to Revenue, advanced to General File, Mr. President. I have no amendments on the bill.

PRESIDENT: The Chair recognizes Senator Maresh.

SENATOR MARESH: Mr. President and members of the Legislature, LB 12 will adjust for the cost of food increase that is predicted to be at 15% this year. My bill calls for an 11% increase in the present \$28 credit, up to \$31. We all know that the price of food keeps rising and we want to compensate

March 31, 1981

LB 58, 87, 157, 157A, 158, 200,
280, 283, 329, 330, 333, 371,
407, 427, 427A, 437, 483, 491, 536

PRESIDENT LUEDTKE PRESIDING

FATHER HENRY BURTON: (Prayer offered).

PRESIDENT: Roll call. Roll call, please. Would all of you please register your presence if you are here? We are still waiting a quorum. Senator Warner, do you want to give us your presence here and we can get a quorum. Thank you. Record the presence, Mr. Clerk.

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

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

CLERK: I have no corrections, Mr. President.

PRESIDENT: The Journal will then stand as published. Are there any other messages, reports or announcements, Mr. Clerk.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 329 and recommend that same be placed on Select File with amendments; 333 Select File with amendments; 483 Select File; 407 Select File; 427 Select File; 427A Select File; 157 Select File; 157A Select File; 200 Select File; 371 Select File; 280 Select File; 536 Select File; 158 Select File; 330 Select File; 58 Select File with amendments; 491 Select File; 283 Select File with amendments; 87 Select File; 437 Select File with amendments. All signed by Senator Kilgarrin as Chair. That is all I have, Mr. President.

PRESIDENT: Thank you, Mr. Clerk. Senator Haberman, did you wish...Senator Haberman. The Chair recognizes Senator Haberman for a point of personal privilege. Yes, and you should all pay attention to this because it is pretty personal.

SENATOR HABERMAN: Mr. President, members of the Unicameral, this is a very personal thing and I would like to have your attention, especially the attention of the press. In the Omaha World Herald and in the Star this morning, it says, "Senator Rex Haberman of Imperial who operates a liquor store". I do not operate a liquor store. I do not own a liquor store nor do I have any stock in any liquor stores. I do not know where this idea came from and I would like to inform this body and have it go on the record that I am in no way involved in any liquor stores, wholesale, retail, giveaway or anything else, and I thank you, Mr.

April 1, 1981

LB 298, 40, 167, 208,
384, 483, 253

and support things for somebody else but don't mess in my little bird nest. So I'd just like to include us all in it if we are going to go. I don't like to see somebody excluded just because they are working on it. I can work on something between now and next year, too.

SPEAKER MARVEL: The motion is to advance the bill. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record.

CLERK: 25 ayes, 12 nays, Mr. President, on the motion to advance the bill.

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

CLERK: Mr. President, if I may while we are waiting, Education reports LB 208 to General File with amendments.

Senator Labeledz would like to print amendments to LB 483; Senators Goodrich and Newell and DeCamp and Koch to LB 40; Senator Vickers to LB 384; and Senators Hoagland and Warner to LB 167.

SPEAKER MARVEL: The next business is LB 253.

CLERK: Mr. President, LB 253, (Read title). It was read on January 16, referred to Ag and Environment. On March 24 the committee amendments were adopted. At that time the bill failed to advance. There was also an amendment from Senators DeCamp, Hoagland and Wesely which was adopted at that time. Mr. President, Senator DeCamp has amendments found on page 1162 that I understand he wishes to withdraw. You want to withdraw those on 1162, is that right, Senator?

SENATOR DeCAMP: Yes, the longer page ones is the ones I want.

CLERK: Okay, and then, Mr. President, I have an amendment from Senator DeCamp that is on page 1177 of the Journal.

SPEAKER MARVEL: We are now on the DeCamp amendment, page 11, what?

CLERK: 1177.

SPEAKER MARVEL: 1177.

SENATOR DeCAMP: Mr. President, members of the Legislature, you may remember...this is the litter bill. You may remember Senator Fowler and Wesely and Vickers and Chambers and,

April 2, 1981

LB 39, 168A, 329,
333, 384, 483

Mr. President, I have a series of amendments from Senators...two amendments from Senator Wesely to LB 384 and an amendment from Senator Koch to LB 39. (See pages 1281-1282 of the Legislative Journal.)

SPEAKER MARVEL: Okay, Senator Kilgarin, we have the A bill, 168A.

SENATOR KILGARIN: I move LB 168A be advanced to E & R for engrossment.

SPEAKER MARVEL: All those in favor of that motion say aye, opposed no. The motion is carried. Are we ready for 329, Mr. Clerk?

CLERK: Yes, sir, there are E & R amendments to 329, Senator. E & R amendments.

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: I move the E & R amendment to LB 329.

SPEAKER MARVEL: All those in favor of that motion say aye, opposed no. The motion is carried. The amendment is adopted.

CLERK: I have nothing further on the bill, Senator.

SPEAKER MARVEL: 329?

CLERK: Yes, sir.

SENATOR KILGARIN: I move LB 329 be advanced to E & R for engrossment.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The bill is advanced. The next one is 333.

CLERK: There are E & R, Senator.

SENATOR KILGARIN: I move the E & R amendments to LB 333.

SPEAKER MARVEL: All those in favor of that motion say aye, opposed no. The motion is carried. The amendment is adopted.

CLERK: Nothing further on the bill.

SENATOR KILGARIN: I move LB 333 be advanced to E & R for engrossment.

SPEAKER MARVEL: All in favor of that motion say aye, opposed no. The motion is carried. The bill is advanced. Next bill is 483.

April 2, 1981

LB 483

CLERK: Mr. President, I have a series of amendments to 483. There are no E & R but I do have an amendment from Senators Maresh and DeCamp to the bill. (See page 1283 of the Legislative Journal.)

SPEAKER MARVEL: Senator Maresh, do you have an amendment, 483?

SENATOR MARESH: Mr. Speaker, will the Clerk please read the amendment? Do you want to read the amendment?

CLERK: (Read amendment.)

SENATOR MARESH: Mr. Speaker, members of the Legislature, this was called to my attention by the people in Crete. They are concerned about these mechanical bulls that are brought to the taverns and after the people have a few drinks and they get pretty brave and get hurt on these bulls. At the same time they get the patron to sign an exemption that the place of business will not be liable and I think if you read the material I handed out where this young man fell off of one of these devices and is paralyzed below his neck and I don't think that the state should assume to support these people when they do get hurt, to pay welfare payments to the family that the person can't support and I think that we should require that they carry insurance just like the State Fair when they have these rides. Some of them are hazardous and when people get hurt on the rides the Fair Board is responsible and I think the tavern should be responsible for the injuries that are caused by these mechanical devices, so I move that the amendment be adopted.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: Mr. Speaker, members of the body, I read the article that Senator Maresh handed out but you also notice that that gentleman was not satisfied with just one ride or two rides. He got back on again, the urban cowboy, and said, speed it up, I think I can handle it. And what he should have done is gone out here to a rodeo school for a while and learn to ride a calf, a very young one, and then gradually work his way up to the bucking broncos. I don't know how we can legislate for those kinds of things because you can do the same thing if someone is in a tavern and he has a driver's license. So then he goes out and he gets in a car and he goes full speed and suddenly he is a paraplegic or could be. So we are getting down to issues that are difficult to define, yet I empathize with that gentleman because he is going to spend a considerable part of his life in a condition that most of us would not welcome,

but for us to very suddenly, because of one incident, as I read the article that is all they have records on, although there were doctors quoting other serious injuries which occur, I think it is time the public when you get to be a certain age must realize there are certain risks and if you are willing to take those risks then you maybe have to suffer the consequences. Now a tavern owner does not need to own that bucking bull. I will grant you that. That is a matter of free enterprise and if I owned a tavern it would probably be one of the few things I would not want around but yet when you get into the world of free enterprise occasionally there are some ingenious devices which are brought to bear but I think that is where the consumer must have some common sense, exercise good judgement and understand that probably they are not capable of handling that robot. So I suggest even though Senator Maresh brought this amendment to us, that we do not take it too seriously right now because we could also add a number of other provisions in there and because you are a licensee that distills beverages that sometimes give us personality adjustments either good or bad, that we should not seriously take this amendment and place it in this piece of legislation.

SPEAKER MARVEL: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, this is a doggone good amendment and I am happy to be a co-sponsor of it and it is not as silly as you think. We are not saying somebody cannot ride the bucking bronco or bull or anything else and we are not saying they cannot haul them into the tavern. All we are saying in this amendment is in liquor establishments, retail liquor establishments. We are not even talking about other places. If they want to do it out in the middle of the street, fine, but in liquor establishments when they have you climb on that crazy thing and then hand you the piece of paper just before you do, after you have had six drinks and made a couple of bets with some people about whether you can stay on, that sign, you can't just waive all your rights by signing a piece of paper and that is the way the system works now. You can't climb on the doggone things until you sign a paper saying no liability of the guy whatsoever. You put your quarter or fifty cents in and end up with a broken who knows what, it just is not a good system and there is injuries all over the country occurring and I think it makes sense to say, if you are going haul that doggone thing in and they go from one bar to another, they are not going to haul them in and put half drunk people on them and then escape all liability because Jake or Otis or whoever signed a paper that he did not know what was in it in the first place because that is the way it is functioning and we are going to be picking up

April 2, 1981

LB 483

the expenses one way or another. I urge you to adopt the amendment. I repeat, it does not say they cannot use them. It just says in liquor establishments holding liquor licenses, the owner or whoever is running this, cannot escape all liability just by having everybody automatically sign a little piece of paper saying there is no liability, so I urge you to adopt it.

SPEAKER MARVEL: Senator Maresh.

SENATOR MARESH: Mr. Speaker, I would like to add that even though you put up a sign, "Mean Dog", or any other sign warning people of dangers at your home, you are still, as homeowner, you are liable and I think this is the same case that even though the tavern operator has you to sign a statement, probably in a dark place you don't even know what you are signing so you sign away your life and I think that they should not be allowed and we have guest statutes that were repealed where riding in a carpool the people are still liable for that guest in the car so I think the same thing here, that those people that are providing this nuisance should assume the responsibility and this does not go into effect until January 1, 1982.

SPEAKER MARVEL: Senator Vickers.

SENATOR VICKERS: Mr. President and members, I rise to oppose this amendment. I think this is an indication of a fad that has swept across the country. Maybe we should also make it a misdemeanor to own a stetson hat unless you are a bona fide cowboy or a rancher or you cannot own a pair of Justin boots or Tony Llamas unless you actually own a horse. I wonder how many members of this body, I don't know, I will be real honest about it, I never saw a mechanical bull but I will tell you I saw some of the real things. I have seen them from the viewpoint of a bull rider as a matter of fact. You look down at it from the top and it looks a little different perhaps than sitting up there in the stands but nobody twisted my arm or I never had to sign a waiver or anything else when I got on the thing. I knew that if I wound up in the hospital, which as a matter of fact I did one time, that was my responsibility. Now I guess I would have to suggest that if we are going to have this as part of the statutes maybe we better amend it somewhat and we better include off sale of liquor, beer and so forth because being around the bucking chutes a little bit I can assure you that they are not all dry and sober at all the bucking chutes that I have ever been around. So in other words, if somebody sells a six pack to somebody and they go out and get half polluted and go to a rodeo and get on a bull or a bucking bronc and get threw off

April 2, 1981

LB 483

and get their leg broke or their neck broke or worse yet, get killed, and it happens occasionally, then I suppose the person that sold them the six pack should be responsible. I don't see where there is much difference. If the guy gets half polluted and gets on a mechanical machine or on a live animal I can't see where either way he is assuming some responsibilities of himself and he should be responsible himself. Again, if we are going to do this sort of thing and as Senator DeCamp says it is a great idea for the bars to have this sort of a rule against them or a law against them, making them liable, then I would suggest we also make them liable for pool cue accidents. What happens if somebody gets a little bit polluted and takes a pool cue and hauls off and smacks somebody along side the head or pokes them in the eye or something? I mean, shouldn't they also be liable for that? Or how about a slick dance floor? How many of you have been in a bar where they have had a dance floor that was just almost greased? You get a little bit greased yourself and you can hardly stand up, right? What if you fall down and break your neck? Who is responsible? I suppose we better make sure that the bar is. Or maybe a pinball, how many of you have watched the real pros play the pinball machines? You know they get to bouncing the thing around. What if they pop their back out of joint or do something of that nature? I suppose that obviously the bar owner should be liable there too. How far is government going to go in protecting the people? How much of an umbrella do we really want to put over everybody? I think this is ridiculous. Now Senator DeCamp says it is not something that we should be taking lightly. I think it is something that we should laugh at as a matter of fact, laugh it clear out of here. It is pretty...I feel sorry for this individual that wound up being paralyzed. That is too bad. I have known a few people that wound up getting killed in rodeos too. I thought that was too bad also but I am not suggesting we outlaw rodeos. I am not suggesting we make those people quit doing it because I enjoyed it when I did it. I think those people that are being the athletes out there and they are athletes, are enjoying it also. I think this is a fad that probably will go away just like ten years from now I will still be wearing that hat, wearing these boots and I will suggest to you that I might be the only one in the town of Lincoln doing it ten years from now as it could have been fifteen years ago. This fad will go away too but for us to take it so seriously that we put something like this in the statutes is in my opinion, completely ridiculous and I urge this body's rejection of the Maresh amendment.

SPEAKER MARVEL: Senator Dworak.

SENATOR DWORAK: Mr. Speaker and colleagues, I compliment Senator Maresh for bringing this meritorious piece of legislation to our attention. I imagine next year Senator Landis will come in with a license bill and one that these people should wear helmets. Senator Cope will want several mechanical bulls for the Kearney Safety Center so that we can dry run this a couple times. The University will want a couple hundred thousand dollars to research the issue. Senator Schmit will come in wanting to absolve the liability for the tavern owners. I think we have started a whole new chain reaction. We could maybe create a whole new bureaucracy on this issue. I read an interesting little article last night that indicated that government rules and regulations from the time the cow starts in the pasture till the time we get it at McDonald's there is something like forty-one thousand government rules and regulations to protect us and preserve our safety on consuming that particular hamburger. I think we have to recognize and accept the fact that it is not our responsibility to protect every citizen against every contingency. We can not do it if we wanted to. We have no business trying to do it. We need to let people live their lives. This is something that somebody goes into with total free will, total free volition of his own and I think that we need to keep a degree of common sense on it and reject the Senator Maresh's amendment.

SPEAKER MARVEL: Senator Cope.

SENATOR COPE: Mr. President, members, I guess first to Senator Dworak, the Nebraska Safety Center at Kearney specializes in highway safety, not the bull that you are talking about. Second, I think it is a good amendment and I would suggest that any bar or any tavern have plenty of insurance if something does happen. I think they are liable to start on. Think about a store where a person is shopping and somebody drops a banana skin on the floor. Another person slips on it and breaks a leg, who is responsible? You know who is responsible, the store, and they get sued. So whether it is a mechanical bull or any other danger that might happen within the premises I think they are liable and I think it would be a good thing. What will make someone very brave with two or three drinks and breaks his neck or his leg and I guess what bothers me most, I don't feel sorry for him, he is a nut to be on it, but the fact that we probably are going to be paying welfare and all the benefits to his family and I am dead set against paying taxes for that, so I am with you, Senator Maresh, all the way.

SPEAKER MARVEL: Senator Landis.

April 2, 1981

LB 483

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I had my own quippy little speech ready but I guess it is time to call the question. I would like to do that now.

SPEAKER MARVEL: The question has been called for. Do I see five hands? All those in favor of ceasing debate vote aye, opposed vote no. Do you wish to cease debate?

SENATOR MARESH: Mr. Speaker, I really appreciate that Senator Marsh thinks this comes into the line of safety like her effort to protect the children. I think here we are going to protect the riders if we carry this amendment out and I would like to say that I wish the people would read the amendment because there isn't a thing about rules and regs and all these statements that people made such as Senator Dworak and all this does that it does not take away the responsibility of the tavern operator to be responsible for accidents that take place in his place of business.

SPEAKER MARVEL: Senator Maresh, we have voted to cease debate.

SENATOR MARESH: I am closing.

SPEAKER MARVEL: He is going to record the vote and then you can close.

CLERK: 27 ayes, 0 nays to cease debate, Mr. President.

SPEAKER MARVEL: Okay, debate is ceased. Now, Senator Maresh, do you wish to close on your amendment?

SENATOR MARESH: Senator Kahle says I will have to put another query in now. I wish Senator Dworak and some of the other people would have read the amendment before they spoke out on this because there was no government bureaucracy and I think like they spoke about, all this does, the tavern operator will be just as responsible as you as a homeowner are when somebody comes and slips on your icy steps or any other...your dog bites them or whatever happens at your home. I am sure all the people here carry insurance, homeowner's insurance policies and I think these tavern operators or better yet, the person that owns the mechanical bulls should carry liability insurance for those riders that ride the bulls. So I think we are just saying that they cannot waive the responsibility by having the rider sign these statements. Senator, my cosponsor on this amendment, Senator John DeCamp, is going to close on this too.

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

April 2, 1981

LB 483

SENATOR DeCAMP: I am supposed to be closing.

SPEAKER MARVEL: Oh, are you closing? On what? Oh, 483.

SENATOR DeCAMP: On Maresn and my amendment.

SPEAKER MARVEL: Okay.

SENATOR DeCAMP: On the bull. Mr. President, members of the Legislature, I will be very brief.

SPEAKER MARVEL: Thank you.

SENATOR DeCAMP: Senator Vickers is, I would like to address his comments. He says, you know when he goes to the rodeo, when he goes to the rodeo he has got to worry about himself if he climbs on the bucking broncos so on and so forth. When he goes to that rodeo as he well knows, it is a specialized situation. Now when you bring the rodeo into the barroom, you have a little different situation and all we are saying is when you haul the rodeo into the barroom you just don't automatically sign a paper with a half drunk guy who is standing in line which is what I have watched them do, a dozen of them. You have got to sign the paper. They just pass it down so they can climb on the bull and then have no situation of liability. That is what we are trying to make sure if they are going to have the bull jumping around that somebody is ultimately responsible and so that they use a little caution about who climbs on the bull and I think it is a reasonable amendment. And sure, it is a specialized fad, a specialized situation and you go back the last fifty years, you will find all kinds of incidents where they have one new thing or another develop and we use some little legislation to address the issue and I think it makes sense.

SPEAKER MARVEL: The motion is the adoption of the amendment on 483. All those in favor of adopting the amendment vote aye, opposed vote no. That is the amendment to 483. Have you all voted? Have you all voted? Have you all voted on the adoption of the amendment to 483? Senator DeCamp, is this yours?

SENATOR DeCAMP: I know that there is only four votes short and it looks like that is a prevailing mood if we just had a few more people here. Maybe Harry Chronister wants to vote and Remmers.

SPEAKER MARVEL: Have you all voted?

SENATOR DeCamp; Mr. President, how many are excused? Only two are excused? Now we are up to five excused. Well...

April 2, 1981

LB 483

SPEAKER MARVEL: Have you all voted?

SENATOR DeCAMP: I ask for a Call of the House and maybe accept call-ins for a while.

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

CLERK: 12 ayes, 5 nays to go under Call, Mr. President.

SPEAKER MARVEL: The House is under Call. All legislators please return to your seats, record your presence, eradicate those that don't belong down there. The Clerk is authorized to accept call-in votes. Senator Cullan, Senator Koch, Senator Wiitala, Senator Kremer, would you record your presence please. Senator Beutler, Senator Vard Johnson, Senator Hoagland, Senator Newell, Senator Chambers. Senator Labedz and Senator Higgins, would you please record your presence. Senator Cullan, Chambers and Wiitala.

CLERK: Senator Chambers voting aye, Senator Beyer changing from yes to no, Senator Remmers voting yes.

SPEAKER MARVEL: Okay, call the roll. The Clerk will call the roll.

CLERK: (Read roll call vote as found on pages 1283-1284 of the Legislative Journal.) 23 ayes, 19 noes, Mr. President.

SPEAKER MARVEL: Motion failed.

CLERK: Mr. President, Senator Labedz had amendments printed separately that were referred to on page 1261 that she wishes to withdraw.

SPEAKER MARVEL: Senator Labedz.

SENATOR LABEDZ: Yes, thank you, Mr. Speaker, yes, I would make a motion to withdraw by unanimous consent the first amendment because I have another one following that is corrected.

SPEAKER MARVEL: So ordered.

CLERK: Mr. President, I now have an amendment from Senator Labedz, Senator Newell. That is referred to as Request #2269.

SPEAKER MARVEL: Senator Labedz, do you wish to explain the amendment?

SENATOR LABEDZ: Thank you, Mr. Speaker. I certainly don't want to take too much time on this but I do want you to know that I have possibly a complete file and I am not saying it is entirely complete, but I did receive it from the Falstaff Brewery in California and I would like to share some of the correspondence with you because I believe it will give us a better understanding of what has happened to Falstaff Brewery in Omaha. It was on March 7, 1980, that a citation was charged against Falstaff or setting forth the charges against Falstaff. On March 12 they pleaded not guilty to the charges. April 14, 1980, the Attorney General amended the citation and on April 17 Falstaff again pleaded not guilty. That went on until August and I think what is upsetting the Falstaff Brewery in San Francisco the most is the time here. It took from March 17, 1980, until March 28, 1981, before a decision was rendered and in the meantime...(interruption.)

SPEAKER MARVEL: Can I disturb you a minute?

SENATOR LABEDZ: Sure.

SPEAKER MARVEL: What bill are you reading from? What piece of legislation?

SENATOR LABEDZ: 483.

SPEAKER MARVEL: 483? There is an amendment to 483. Go ahead.

SENATOR LABEDZ: Is there a problem? Is it alright to go ahead? The very first telegram that Mr. Kalmanovitz sent was addressed to Attorney General Paul L. Douglas and I think it will understand his feelings on what was happening. He said, "Dear Honorable Douglas: We have not violated any law or regulation of the State of Nebraska. We have made all products available to everyone. We will vigorously challenge the accusations of Quantity Discounts. Number one, where and when did we sell for two prices? Number two, where and when did we refuse to sell to anyone? We operate throughout the United States under my stewardship and we do not violate any law or regulation. We never have and we never will. I have been associated with this industry since shortly after the repeal of prohibition. I am familiar with the laws, regulations that govern our industry. Our policy has been and continues to be that no matter if you are president, chairman of the board or a salesman in the field, your employment will cease with our company if you violate any laws or regulation. I personally enforce this policy." Now I do have two files here and I am not going to take time to read the barrage of telegrams and letters and very little response that this man

April 2, 1981

LB 483

has received in San Francisco when he has sent two or three page telegrams and letters to the administration and did not, he thinks, was totally ignored in part other than receiving some information from the Liquor Commission General Council. I say that these files are open to anyone on the floor or to the press if they would like to see them and I understand there is going to be a public hearing on this same subject on another bill on Monday and I assure you, I will be there to give a lot more information other than what I have just read to you. But in the essence of time and because there will be a public hearing, I would prefer to hold this information and just urge you that time is of the essence and I am sure there is going to be others that speak to you from Omaha because I am sure the major part or all of them from the Omaha delegation are concerned about what is happening to Falstaff. It was not until March 20, 1980, that Mr. Kalmanovitz sent a telegram and said, "The contract expiring on March 31 will not be renewed. The brewery will cease all brewing operations immediately. We will dispose of the inventory and close the plant. All remaining production is being shifted to Fort Wayne, Indiana, where there are no such laws or accusations." And in between that first telegram I read you and the last where he was ceasing operations there are several other telegrams, several other letters that he wrote both to the administration, to the Attorney General, explaining their position and asking, what they were asking for in the end was immediate decision so they could settle it and I did see the plans and specifications in California where they were going to expand the plant because of the fact that they increased business 50% in Nebraska. He did want the plant expanded because even with Falstaff here in Omaha, he was having to ship in merchandise from Fort Wayne, Indiana. So it is essential that we get this amendment attached to this bill on Select File so that we will save time before he closes the plant and I understand, I don't know the mechanism of it, but if he shuts off all the air conditioning after the vats are emptied, the mold immediately sets in and his statement to me, there are several breweries all over the country that have closed but he only knows of one that reopened because of the cost. He also wanted me to give you a message because I told him the rumors all through Nebraska was that the plant was destined to close anyway and this is absolutely untrue. He did have the specs. He did have the plans and he said, you don't close a plant when you are making a profit. He treats the employees fairly. He shared the profits with them and I think it would be a disaster if the State of Nebraska and particularly the City of Omaha lost the Falstaff plant. I urge you to adopt this amendment. After the public hearing on Final Reading after

most of this correspondence and his reasons for trying to keep the plant open aren't satisfactory to the committee, then on Final Reading, if you so desire, you can return the bill and strike my amendment. Thank you.

SPEAKER MARVEL: Senator Newell, do you wish to speak to the amendment as it has been explained?

SENATOR NEWELL: Yes, Mr. President, members of the body, time is, as Senator Labeledz has indicated, time is of the essence. We have a brewery that is closed and as I understand it breweries cannot remain closed very long because of some equipment problems. Basically the seals and other things sort of dry up and creates a tremendous cost to replace those and to get this brewery back in operation. Not only that, but there are a hundred and sixty-seven employees whose livelihoods are being threatened at this point because of the closing of the brewery. The clarification that this law, this amendment will provide will help resolve this issue and help encourage Falstaff and Mr. Kalmanovitz to stay, to keep his plant in Nebraska. This clarification is an important clarification. I would have preferred and Senator Labeledz, I am sure, would have preferred to offer this after the public hearing. But since time is of the essence and since we didn't adjourn as I had hoped we would have at noon and 483 did come up today, we are compelled to ask you and implore you to support this amendment at this time. We have every reason to believe and I believe that Mr. Kalmanovitz is very serious about his desire to keep this plant open. It has always been one plant that has run in the black. It has always been one of his better plants even though it is one of his smaller plants and I think that we owe it to those one hundred and sixty-seven employees and the people of the State of Nebraska who benefit from this much cheaper product for those who like the generic or private label sort of product and I happen to be one of those who do, we owe it to not only the consumers of the State of Nebraska and our region but also to those one hundred and sixty-seven employees to adopt this amendment. I would urge your support for the amendment. I thank you.

SENATOR GOODRICH: Mr. President, members of the body, I, too, stand up to support the Labeledz amendment. I would like to call your attention to the fact that if we can pass this legislation in time, for example, to start up the brewing operation at the plant again within a thirty day period, then the vats and that sort of thing at the brewery are going to be useable at least but if we do not process this bill and expedite it when we are through with this amendment, adopting this amendment we expedite the bill, so that we can get that brewing operation going

again, then there is a real strong chance that we may lose Falstaff. I can also assure you that if we pass this legislation there is a strong chance that we can save Falstaff. The particular amendment which is being offered to you has been cleared by all parties concerned, Falstaff's attorneys, Safeway's attorneys. The Liquor Commission has looked at it. The Attorney General has looked at it. There is no problem. If we're careful how we word this amendment and we do have an amendment to this amendment coming up right behind it. Senator DeCamp has one that changes three words and clarifies the meaning so that it has got a "he, she" and it should have an "it" in it because a corporation is not a he or a she. A corporation is an it. That is the amendment that will be coming up which we should adopt also and I can tell you that, for example, when the Falstaff Brewery first started selling generic and private label beer they notified the Liquor Commission. The Liquor Commission had nine months in which to respond. They did not respond even after several follow-up letters, however, what happened was nine months later a complaint was filed. The complaint was filed not as a result of any other brewery or any other individual. No complaint was filed except the attorneys for the Liquor Commission just decided that they were going to do it. Well this was not a very thorough investigation. All he had to do was read his own file and he would have seen the letter asking for permission to do it which had never been answered. Yet they go ahead and file the complaint. They did not, for example, go to Falstaff. They did not go to Safeway. They did not go to Hinky Dinky and say, hey, we got a problem. Let's talk about it. They just filed a complaint. I don't think that was the right thing to do. Now let me tell you exactly what the complaint included. It included a ten cent extra charge on some cases that were being sold to Hinky Dinky. It also included an item on a pallet sized loads or more had to be sold in pallet sized quantities or more. As far as Hinky Dinky is concerned those are the only two complaints that were significant in my judgement. Both of those were arbitrated out. They discontinued the extra ten cent arrangement and they also discontinued the pallet sized orders so Hinky Dinky was completely dismissed from the thing. Then that left two other things. One of the thing of value that the Commission was contending, for example, that Falstaff was giving a thing of value to Safeway. Well it developed that Safeway had developed the label, Scotch Buy. They had developed it. They owned it. Safeway owned it so there was not a thing of value given between Falstaff and Safeway. Consequently that particular charge went down the tube. Now there is three out of the four main points.

SPEAKER MARVEL: You have thirty seconds left.

SENATOR GOODRICH: Okay, the fourth point was the exclusivity, in other words, Falstaff would not sell Safeway's brand of beer to someone else. That was the charge. Yet right in the briefs it said, "Never was there anyone even asked to buy it." No one even asked Falstaff if they could buy it. They never refused to sell it to anyone else, yet the Commission found them guilty of exclusively selling it to Safeway. Well they should have. They should have sold it only to Safeway because it was Safeway's brand. If anybody else wanted to have a brand they can and I would strongly urge the adoption of this amendment and then the second amendment to it, the amendment to this one and then we expedite the bill and process it. Thank you.

SPEAKER MARVEL: Senator DeCamp.

CLERK: Mr. President, Senator DeCamp moves to amend the Labeledz-Newell amendment known as Request 2269, page 10, strike the words "he or she" and insert "the distributor, wholesaler, or retail license." That is offered by Senators DeCamp, Labeledz and Newell.

SENATOR DeCAMP: Mr. President, members of the Legislature, this is not of the same gravity as the mechanical bull amendment that we just had, however, I think it is necessary if we are going to go ahead with the Labeledz amendment. It is a technical correction since you are talking about possibly corporations and various other entities that you don't use the words "he or she" in this case and be kind of specific so I am identifying "wholesaler, distributor, retailer", so on and so forth. And I make no judgements on the merits of Falstaff, Mr. Kalmanovitz or any of the other things other than to say, if I were running for the U.S. Senate or President I would have him as my P.R. man because I have never seen anybody get more mileage with less expenditure than this individual has in this particular situation and I don't know the ultimate outcome or whether we are going to pass bills so that he can stay in business or can't but I think it would be interesting if we ever learned all the real facts on this case because it is certainly a phenomena like we have not seen in a long time. I do urge adoption of the amendment if you are going to go ahead with the rest of it.

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature,

it is time for a discordant note to be sounded. Senator DeCamp, you are absolutely right. Mr. Kalmanovitz has milked this cow until it ought to have been dry but I think there is a lot more milk in those udders and I think that Mr. Kalmanovitz is going to get every drop before he is through. Now I was amused by Senator Labedz's reading Mr. Kalmanovitz's disclaimer about having done anything wrong. I had a dream one night, Senator Labedz, where ever you are, and they had before the Bar of Justice, there were clouds and lights and harps and things like that. They had people like Joe Vilache, Jesse James, Frank James, the Dalton brothers, John Dillinger, Al Capone, Joe Bonono and all of them and they had briefcases and broke down hats and dark eyeglasses on and they were asked. You men are accused of various crimes and I want to ask you, did you commit those crimes? And they sounded like a harmonious miniature version of the Mormon Tabernacle Choir as they all said, "No." Now do you think Jesse would admit he robbed a bank? No. So what he said is totally irrelevant but there were some things you said I think would require some clarification. I was told the other day that this man does not want a law passed, that he wants to challenge this matter through the courts. Is that correct, Senator Labedz?

SENATOR LABEDZ: Mr. Kalmanovitz told me that what he was looking for all year for one year was a decision by the Liquor Commission which he did not get so on March 20 he decided to close. He told me at that time, had that decision come through and it would have been favorable he would have kept the plant open. He has not given me a commitment on the legislation whatsoever, but I asked him whether or not I should go on with the amendment. Definitely, yes.

SENATOR CHAMBERS: Thank you. Now that we know where the marching orders came we can proceed because now after all the things I was told the other day about him not wanting this law, that he is not the one who pushed for it, now we are being told that he does want it so the Legislature will give it to him apparently. But, Senator Labedz, you also said he had expansion plans for the plant on paper. That is all they were, just paper, and they use these probably for every group that comes from any city and they just change the name on it. They say, do what I want you to do and here is what we are about to do, but if he is operating at a profit he is not going to close. Him saying that his desire is to close in order to make a point is like him putting a gun up to his head and saying if you don't do what I want you to do I am going to blow my own brains out. That

April 2, 1981

LB 483

does not make sense and I think people like that need a guardian of some kind who could interpret the real world for them and make sure that what comes out of their mouth is something that sounds more rational than that. Now you say he won't close, I say he will close and as for that mechanical bull reference that Senator DeCamp made when he was talking, if you do something about what is being manufactured in this plant, you might not have to worry about the safety of those who ride that bull because they might have sense enough not to get on it in the first place. Now, I think Senator Labedz is quoted in the paper as having said this gentleman is a man of great principle. So was Scrooge. He said to Cratchet when he wanted a raise, "Don't they have any poor houses, work houses? Let the poor go there and if they die why they just decrease the surplus population." So his compassion does run but it does not run toward those who need it but toward those who have a lot. So how is this man going to be considered a man of principle when he is telling this Legislature, the Governor and the Mayor that if you don't heel when I say heel, then I am going to close this plant and put one hundred and seventy employees on the street and starve them out. That is how I reveal my principles. Can't we begin to put some of these things into focus? Who is this man trying to hurt? Does he fear that if he goes to court he will lose? He need not close his plant down. He was not told he cannot brew beer and sell it and if he is operating at a profit, it is foolish for him not to continue to do so, but if he has plans to close the brewery anyway, then he is going to close it no matter what the Legislature does. So I have tried to puzzle through in my mind why this man would try to want the Legislature, the Governor, the Mayor and people to be walking in the rain saying as Senator Stoney poetically put it, "Save the Suds," why would he do that if he wants to move anyway? Well out in California when you are very rich you might want to have a party of very sophisticated people who are effete, who are saturated with all of the things that the world can offer so they need a new bit of amusement. So what do you do? You pull out newspaper clippings and show how I really put one over on the hicks. Look what I did with that Big Red Football state out there. Why I got the Legislature, I got them on an airplane. They flew out here. I had the Governor begging me. I had the Mayor and all the people running for Mayor walking in the rain and now I made them change the law to say that what I was doing was right and then everybody is sitting there saying, "And then what did you do, Mr. Kalmanovitz, oh, man of great principle?" "I closed a plant and I put a hundred and seventy employees out in the street. That is what I did." Then they all clap in the way that effete people might clap by popping their

April 2, 1981

LB 483

fingers. And that is the shameful scenario that I see unfolding here. Remember the Liquor Commission did not say he had to close his plant. If he loses in court, the court will not say he has to close his plant. So why won't the Legislature allow the courts in this process to take its course? All of you remember that when I made the allegation that the man wanted the Legislature to hurry up and act I was told repeatedly, that is not true. He does not want a law. He wants to go to court. So what it looks like to me, I wouldn't call the man a "yo-yo" but I would say some of his behavior is similar to the behavior of somebody you would label a "yo-yo" and were he a "yo-yo", I would say a "yo-yo" is making a "yo-yo" out of the State of Nebraska, on the end of the string. When he wants to hold it in the hand, he can. When he drops it, it will drop. If he wants it to hesitate at the bottom, it will hesitate. If he flicks his finger, it runs right back up the string where it started. What I think somebody who favors Falstaff ought to do is ask that man why he will not keep his plant open when there is no reason for him not to keep it open. I believe we are being, those who are voting for the bill, not me, are being hoodwinked and sold a bill of goods for the amusement of an individual who is at least eccentric and I am opposed to this motion and if it goes on the bill, the amendment, naturally I would not support the bill but what is one out of forty-nine?

SPEAKER MARVEL: Senator Beyer.

SENATOR BEYER: Are we on the DeCamp amendment? I call the question.

SPEAKER MARVEL: The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate vote aye, opposed vote no. Record. Have you all voted? Do you want to cease debate or do you want to continue? Okay, record.

CLERK: 26 ayes, 2 nays to cease debate, Mr. President.

SPEAKER MARVEL: Debate is ceased. Senator DeCamp.

SENATOR DeCAMP: Mr. President, the amendment, all it does then is allow the mechanical...no, the amendment just makes a technical correction in the Labeledz amendment.

SPEAKER MARVEL: Okay, Senator DeCamp was closing. The motion is the adoption of the DeCamp amendment to the Labeledz amendment. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record the vote. A record vote requested?

CLERK: No, he is kidding. 26 ayes, 3 nays, Mr. President.

April 2, 1981

LB 483

SPEAKER MARVEL: The motion is carried. Okay the motion now is the adoption of the Labeledz-Newell amendment. Senator Labeledz.

SENATOR LABEDZ: Thank you, Mr. Speaker. While Senator DeCamp and Senator Chambers were speaking, I got a call from San Francisco from Mr. Jack Miller and he is sending me a telegram and it will be delivered to my home tonight and I just took part of it down but he said, "Due to the efforts of the Legislature and the wonderful people of the State of Nebraska and the the ten thousand signatures that he received today he is ordering the plant reopened and they will immediately start ordering supplies." (applause.)

SPEAKER MARVEL: Still in operation. Okay, the discussion is the Labeledz-Newell amendment. Okay.

SENATOR LABEDZ: ...(mike not activated)...amendment on LB 483 but he also added, "irregardless of the Legislature's decision on this bill or with the decision, as to the decision of the Liquor Commission he will fight to the finish to prove that he was right but he will in the meantime reopen the plant.

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

SENATOR GOODRICH: Yes.

SPEAKER MARVEL: We are speaking to the amendment.

SENATOR GOODRICH: Will Bernice Labeledz answer a question or two, please?

SENATOR LABEDZ: Yes.

SENATOR GOODRICH: Bernice, we still have the question brought by the Attorney General's office relative to the wording of the state law. We should still process this bill. Is that correct?

SENATOR LABEDZ: Oh, that is correct, definitely.

SENATOR GOODRICH: Okay, I want to be sure and the reason I am making this point is the fact that in the event we do not process this legislation there is nothing stopping the Attorney General's office or the Liquor Commission or somebody else coming back and doing the same thing again so we have to clear up in the state statutes whether or not private label is outlawed in Nebraska or legal in Nebraska and we need this legislation, the Labeledz amendment, we need this and we need to adopt it and process this bill in order to

clear up that point. There are a number of other private labels in the State of Nebraska that were never even challenged and this will clear up for all of them, the need for this bill will clear up for them, the very same question and we won't have the same thing coming up on other beverages. Thank you.

SPEAKER MARVEL: Senator Newell, do you wish to be recognized?

SENATOR NEWELL: Mr. President, members of the body, this is a very positive development and I am very glad that Senator Labedz was able to give us that information. I would like to just talk to the issue itself just for one brief moment. You know, one of the key questions here is whether or not this product ought to be sold in a generic or private label fashion. The fact that it can be sold cheaper, that it would hold down the prices, is beneficial to the consumer, is reason enough to support this amendment. It only helps that the plant is going to be reopened. It only helps that we show Falstaff and Mr. Kalmanovitz that we want them. Those are secondary but very beneficial issues and with that I urge the body to accept this amendment.

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, with great trembling and trepidation I stand before you at this hour of three thirty-five, April 2, but here is what I have to say. I am still opposed to this amendment. It now is not necessary and we can have a judicial determination of whether or not what the Liquor Commission ruled and what the Attorney General's office has alleged is true with reference to how the law should be interpreted. I still think it is a terrible policy decision by the Legislature to change the law to make legal what is already being done by an individual when a cloud has been cast upon its legality. Nobody can say that the product which we are dealing with operates for the public good. I am not talking now about the income of those employees who work at the plant, but since the man does want to go to court, let him keep his plant open and let the courts rule on this matter. The Legislature should not add this amendment and it should not legalize what has been declared illegal by the Liquor Commission. Let us find out whether the various levels and layers of attorneys who are on the state payroll know how to evaluate the law. Now if a law is passed which legalizes that which is being done, that might render the whole issue moved. There is no longer perhaps a live controversy for a court to make a ruling on. There is nobody

suing for damages as far as I can determine but only to find out whether the interpretation of the law made by the Liquor Commission and the Attorney General's office is appropriate and I think that the judicial process should be allowed to run its course. That way we will all have what we want. The Falstaff workers have their jobs. Mr. Kalmanovitz has his very lucrative operation continuing to function. Those who like to consume the product are able to do that and people like me who want to see the integrity of the Legislature maintained will have that and those who are total purists when it comes to the law will see the judicial system given the opportunity to weigh all aspects of this matter and make a judicial determination. If, as Senator Goodrich and others have alleged, what Falstaff is doing is legal, the court will merely underline it. But if it is not legal, then you will know what appropriately ought to be done if anything. So I oppose the amendment and I still ask you, do not jump through the hoop. You don't owe that to the man. You have whipped him. You touched him in his compassion. You made him want to keep fattening his wallet as he has been doing on the people of Omaha. So now, don't give him what I said he would want which is something to laugh at with his friends out there in California as they drink Miller High Life or whatever substance those kind of people drink. I ask you not to adopt this amendment.

SENATOR KAHLE PRESIDING

SENATOR KAHLE: Senator Wiitala, you are next.

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

SENATOR KAHLE: The question has been called. Do I see five hands? I do. Those wishing to vote to cease debate vote green. Debate is ceased. Record.

CLERK: 25 ayes, 0 nays, Mr. President, on the motion to cease debate.

SENATOR KAHLE: Debate is ceased. Senator Labedz, would you like to close on your amendment.

SENATOR LABEDZ: Oh, yes, sir. It is essential that we do pass this amendment. I don't know about the public hearing on Monday but I assume because of the fact that we have to have five days notice we will have the public hearing and I would like to tell the people more about what and how important it is that this legislation be passed regardless of the outcome of the court case and he will go to court. Regardless of the outcome of this legislation he will open

April 2, 1981

LB 483

the plant but if the decision in court runs against him, we will need this legislation. So I urge each and every one of you to support the amendment to LB 483. Thank you very much.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: The motion is the adoption of the Labedz amendment to the bill. All those in favor of the Labedz amendment vote aye, opposed vote no. Record, Mr. Clerk.

CLERK: 28 ayes, 2 nays on adoption of Senator Labedz's amendment.

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

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

SPEAKER MARVEL: The motion is the advancement of the bill to E & R for engrossment. Senator Newell, your light is on. The motion now is to advance the bill. Do you want to speak to that motion?

SENATOR NEWELL: I don't think I need to.

SPEAKER MARVEL: Senator Chambers, do you wish to speak to that motion?

SENATOR CHAMBERS: Yes, Mr. Chairman, I must do it. These last few days, I know what the prairie feels like when there is a thundering herd of buffalo stampeding or cattle or other four footed creatures but nevertheless, the prairie must be the prairie and I must be Ernie. That reminds me of an Oscar Wilde play called The Importance of Being Earnest and on occasion it is extremely important that there be somebody who is earnest whether that term be a proper name or an adjective because people can be carried away with exultation and do things when they are swept away by emotion but what I am asking the body to do, I don't often get choked up when I speak on the floor of the Legislature but this is rather an unusual occasion and you have to bear with me. What you ought to at least do is hold this bill until the sham of the public hearing occurs if it is to take place on Monday. Don't make the whole thing a shambles. Now you have gotten what it is that you said you wanted which is a commitment, unless somebody is going to write Senator Labedz and say, "April Fool" later, you have gotten a commitment to keep the place open. So what further need is there now to prostitute the system? This is one time when I think it will cost you nothing and it will not hurt anything

April 2, 1981

LB 483

to just let this bill stay where it is. Let there be a public hearing since there is going to be one anyway and then go ahead and move the bill which undoubtedly will occur. I think all of you know that I am opposed to the amendment and since it has been attached to 483 I am opposed to the bill and will vote against it but for the sake of the appearance of propriety, you ought to just let the bill remain where it is and not vote to advance it and I won't repeat any of the things that I have said already.

SPEAKER MARVEL: Senator Goodrich.

SENATOR GOODRICH: Mr. President, members of the body, there is a need, I am going to try to answer Senator Chambers' question, what is the need of it now? There is a need. The case is still pending. It has not been ruled on. We not only have to pass this thing to protect the industries of Nebraska in the future but I would also request that when we get through with this, advancing the bill, we expedite the bill.

SPEAKER MARVEL: Senator Labedz, do you wish to close on your amendment? On the bill?

SENATOR LABEDZ: No closing, Mr. Speaker, just move for the advancement of LB 483.

SPEAKER MARVEL: The motion is the advancement of the bill. All those in favor vote aye, opposed vote no. Have you all voted? Record the vote. A record vote has been requested.

CLERK: (Read record vote as found on page 1285 of the Legislative Journal.) 25 ayes, 4 nays, Mr. President.

SPEAKER MARVEL: The motion is carried and the bill is advanced and the request is to expedite the bill. There is a unanimous consent motion to expedite the bill. Do I... Senator Beutler. Objections? Senator Goodrich.

SENATOR GOODRICH: Well I am going to move that we expedite the bill. For Pete's sake, it doesn't make much difference. You are going to have your shot at it on Final Reading if you object to the bill. What the devil difference does it make? Why object to something like this, but if you are going to do that, then I have no alternative except to move to expedite the bill.

SPEAKER MARVEL: The motion is to expedite the bill. Senator Chambers, do you wish to speak to that motion?

SENATOR CHAMBERS: Yes. Senator Goodrich, don't cry now. Just hold your horses and keep your powder dry. You have got everything that you want. Now the Legislature has jumped through the hoop, is running as fast as it possibly can to do what this man wants it to do. Now why must you take the last shred of dignity from the Legislature? Why does it have to be expedited? How is it going to be expedited? Somebody from the Clerk's office is going to be given the bill and told now run as fast as you can down to the bill drafter's office, stand over the bill drafter and say, now hurry up and print those amendments. Hurry up and produce a bill, then they are going to run it back here as fast as they can and then it has got to sit on Final Reading a day anyway. Members of the Legislature, can you if possible, separate everything that has gone before from what I am about to say now? Sometimes very small things go a much greater distance toward characterizing an entire process than really the substance of it. So there has been some humor involved in the substantial handling of the bill but now we come down to the point where this ridiculous effort is being made to expedite a bill that has not that much significance to it. It is not necessary to do that, Senator Goodrich, and I hope that the members will not agree to expedite this bill but let it just take its own leisurely course, Senator Goodrich, and it won't be too long before it gets where it is going.

SPEAKER MARVEL: Senator Newell.

SENATOR NEWELL: Mr. President, members of the body, I am going to rise to support Senator Chambers and Senator Goodrich. I think that is possible. First of all, I think Senator Chambers has made a great point. Sometimes it is very important to recognize what it is you are doing and why you are doing it and to try to assess some importance to it. You know Senator Chambers considers this whole thing one of process and one of dignity. You know I think Senator Chambers forgets that we are talking about a hundred and sixty-seven jobs or a hundred seventy, whichever figure you want to use, Senator Chambers, that we are talking about showing an industry that we want them to stay in the State of Nebraska, the last remaining brewery in the state. Now we can expedite bills and we have done this on numerous occasions. We expedited 518. Don't you remember that, Senator Schmit? I said, now wait a minute, let's not expedite that bill but for some reason there was a desire to bring new industry in this state and that bill, 518, and its predecessor, 1241, was going to bring that new industry in. It never came but we expedited a bill anyway. This is a case where we can keep some industry in the state. That commitment is given. I think it is important to show

Falstaff, the employees, the people of the City of Omaha that we are concerned, that we are trying to help, that this Legislature is not an obstructionist body, that this Legislature does care about people and that we are not playing a little game down here as Senator Chambers kind of likes to make it look like sometimes, that this is all very serious business but it is the people's business, Senator Chambers. It is the people's business we are about and I think that is why this bill ought to be expedited. I think that this is not only symbolic but it is correct. It is right and for that reason I rise to support Senator Goodrich's motion. I think it is only fair that we move this as quickly as we possibly can.

SPEAKER MARVEL: Before we call on Senator Schmit, I would like to introduce in the North balcony from Senator Cope's district, 56 fifth and sixth grade students from Doniphan Elementary School, Doniphan, Nebraska, and teachers, Miss Pam Kuhn and Mrs. Connie Robison. Where are you folks located? Up here? Okay, we welcome you to the Unicameral. Senator Schmit.

SENATOR SCHMIT: Mr. President, members of the Legislature, I support Senator Goodrich and Senator Newell's efforts to expedite the bill. This bill is to Senator Newell what the grain embargo was to the farmer of Nebraska. That was a 500 million dollar impact and Senator Newell was not particularly concerned at the time but it has had some impact and it is going to continue to have some impact. I think in times such as these when we are not allowed access to all the grain markets we possibly can find to close another brewery which is going to use some grain is perhaps one good reason for keeping the blooming thing open. So, I certainly support Senator Newell. Senator Newell, in regard to 518 I think business has come to Nebraska. I think we would find that personal inventory is much higher today than it was six years ago and I hope that you would understand that. I do want to say this, that it is the same old story. You know the impact upon Omaha is great and I recognize that and those of us that come from areas that are impacted by this sort of action have a right and a responsibility to bring it to the attention of the body. I would hope that we would expedite the bill and do all we can to preserve those hundred and sixty jobs in Omaha for whatever they are worth.

SPEAKER MARVEL: Okay, the motion is to expedite the bill. Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I wish to oppose the motion to expedite. You know, actually we are not talking about very much. As I understand the

motion to expedite, basically what it means is that Emory Burnett down in E & R puts this bill ahead of the others that he has down there to deal with. It is my understanding that there are very few down there right now. In addition tomorrow we have a day off, so he is going to have all day tomorrow to do them, so in all probability they are all going to get done anyway. So, in short, the motion to expedite means almost nothing, nothing, practically but it has a highly symbolic effect. It has a highly symbolic effect in both directions, but to me the protection of the legislative process, the symbolism in that respect is more important than whatever it does for the owner of Falstaff. If you allow a motion to expedite now, then we are going to encourage a process where when anybody thinks his bill is a little more important than somebody else's, we will be starting to argue motions to expedite. Today it is Falstaff. Tomorrow maybe it is the Vet College bill or whatever most likely bills that have powerful supporters, bills that can probably have a chance of obtaining a favorable response on a motion to expedite but, nonetheless, I think we want to keep out of our legislative process, the whole idea of motions to expedite unless there really is a true significance to them, unless there is a true emergency, unless the expedition is, in fact, meaning something. It does not mean anything here. If we allow the public hearing to occur Monday, at the latest this bill is going to be back up to us Tuesday instead of Monday, so it is very, very, what is the word I want, dangerous, unwise, I think, to go through this process and this foolery for no purpose whatsoever. So I encourage you to vote against the motion to expedite.

SPEAKER MARVEL: Senator Barrett.

SENATOR BARRETT: Mr. Speaker, I move the Legislature adjourn until 9:30 a.m., Monday morning.

SPEAKER MARVEL: All those in favor of that motion ... just a minute. The motion is to adjourn until nine-thirty, Monday. Is that right, Senator Barrett? All those in favor of that motion say aye, opposed no. The motion is carried. We are adjourned until nine-thirty, Monday.

Edited by Arleen McCrory.
Arleen McCrory

April 6, 1981

LB 412, 36, 213, 483, 486

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

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

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

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

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

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

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

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

Explanation of vote from Senator Nichol.

Miscellaneous Subjects offers confirmation of gubernatorial appointments report.

Committee on Judiciary reports 213 to General File with amendments.

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

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

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

April 6, 1981

LB 59, 167, 168, 168A,
329, 333, 483, 241

engrossed; 167, 168 and 168A, 329, 333 and 483 all correctly engrossed. (Signed) Senator Kilgarin, Chair.

Mr. President, LB 241 was introduced by Senator Don Wesely and Senator Haberman. (Read title). The bill was first read on January 16. It was referred to Urban Affairs for public hearing. The bill was advanced to General File. There are committee amendments pending by the Urban Affairs Committee, Mr. President.

SENATOR KAHLE: Senator Landis, will you give us the committee amendments?

SENATOR LANDIS: Mr. Speaker, members of the Legislature, LB 241 is the sign bill. It is the death struggle between the City of Lincoln and various members of the outdoor advertising industry. It is the Roy Mehmken Memorial Scholarship Fund bill and this bill came through the Urban Affairs Committee. The committee heard the bill and took proponents and opponents which you will find listed in the committee statement. At the conclusion of the hearing, the committee made some alterations, struck some language from the bill, striking lines 10 through 12 on page 2 and indicated a formula to describe what full economic value was and that language appears in the committee amendment, in the first ten lines of the committee amendment. The addition of the words "a legally erected" sign was for the purpose of clarification and, lastly, there is with the striking of some language that appears on page 3 and on page 4, by striking some of the new language the committee intends to create in effect a grandfathering mechanism so that signs which are now unconflicting uses may continue to be unconflicting uses or at the city's discretion, if they wish to force the taking down of a nonconforming sign that is presently legally erected that they will pay either relocation costs or the value of the formula that appears in the committee amendments. So those are the three things that the committee amendment does. It indicates clearly the formula of repayment. It adds the qualifier "a legally erected" sign, and, thirdly, by striking some of the language in the bill, it creates in effect the option of the city to keep these signs which they declare to be nonconforming uses as nonconforming uses until such time, well, in the normal course of events they would fall down or need repair, and as all of those of you who are familiar with zoning, that means that at that time you may not replace a nonconforming use but, in fact, you will have to take the sign down. That is what the committee amendments do and I would urge the adoption by the body. Let me say this, I understand there is some controversy on

April 8, 1981

LB 249, 326, 483

SENATOR CLARK: The question before the Legislature is the advancement of 249 to E & R. All those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting aye.

SENATOR CLARK: We are voting on the advancement of 249 to E & R. Record the vote.

CLERK: 27 ayes, 6 nays on the motion to advance LB 249, Mr. President.

SENATOR CLARK: The bill is advanced. Senator Landis, you had a motion?

SENATOR LANDIS: I would, unless the Clerk has things to read into the record I would move to adjourn.

SENATOR CLARK: Do you have something to read in, Pat?

CLERK: Quickly, Mr. President, Senator Kremer would like to print amendments to 326; Senator Labeledz to 483. (See pages 1362 and 1363 of the Legislative Journal.)

SENATOR LANDIS: I will move to adjourn until tomorrow morning at 9:00 o'clock, Mr. Speaker.

SENATOR CLARK: You heard the motion. All those in favor say aye. All those opposed. We are adjourned until 9:00 o'clock tomorrow morning.

Edited by

Arleen McCrory
Arleen McCrory

April 10, 1981

LB 329, 333, 483

PRESIDENT: All right, that will be laid over. Before we get on to Final Reading someone left a note up here and said that it was somebody's birthday and you figure it out and I figured it out real quick because I heard the pages singing Happy Birthday to him and it's our friend, Senator Goll. Would you stand up and be recognized, another year with balloons and all, happy birthday. Now that should get us all in the mood for Final Reading. Okay, the Sergeant at Arms will clear the aisles and all members will be at their desks. We will commence with Final Reading. Senator Higgins will be a little bit delayed. We will go on to LB 333, Mr. Clerk, to start the Final Reading so we will commence on Final Reading with LB 333.

CLERK: (Read LB 333 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 333 pass with the emergency clause attached. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on pages 1394-1395 of the Legislative Journal.) 39 ayes, 0 nays, 10 excused and not voting, Mr. President.

PRESIDENT: LB 333 passes with the emergency clause attached. We will now go back and pick up LB 329, Mr. Clerk.

CLERK: (Read LB 329 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 329 pass. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on pages 1395-1396 of the Legislative Journal.) 40 ayes, 0 nays, 8 excused and not voting, 1 present and not voting, Mr. President.

PRESIDENT: LB 329 passes. The next and final bill on Final Reading this morning is LB 483.

CLERK: Mr. President, I have a motion on the desk.

PRESIDENT: Motion on the desk, read the motion.

CLERK: Mr. President, the first motion I have on the bill is from Senator Chambers. Senator Chambers moves to return LB 483 to Select File for a specific amendment. The amendment reads as follows: (Read Chambers amendment as found on page 1396 of the Legislative Journal.)

PRESIDENT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, when this proposed amendment was discussed a few days ago I was not present. I think it is a very worthwhile amendment and I wish, Senator Maresh, I had been here at the time it originally came up. What we ought to look at is not that the entertainment aspect applies only to the person riding one of these devices, it also applies to those who are watching. So a situation has been created whereby an inducement is made to the public to come to one of these establishments, not just to drink, but with the very real possibility of observing a person become injured while riding one of these devices. Because it is not just related to the person on the vehicle or device but rather to those who are coming there as spectators, I think it is unconscionable for the Legislature to allow a set of circumstances where the bar owner is going to receive a benefit, a financial, measureable, definable benefit without incurring any liability should a person become injured as a result. So it is not good public policy for the Legislature to allow a dangerous situation to exist. The person creating the situation to profit from it but then be exempt from all liability as a result of obtaining an agreement to waive liability from a person who may not be completely in possession of his or her senses. I hope you will look at the seriousness of the matter. We have no way of determining who will risk himself or herself but we know that when people are under the influence of that old snake oil, that firewater, they do things that ordinarily they might not do. Their sense of and appreciation for danger is diminished perceptibly and because of that they may put themselves in a position where they need to have a quasi guardian or somebody looking out for their welfare. In the same way that one person who defrauds another is held accountable, when through his or her trickery of misrepresentation one person is injured, we have to analogize from that and protect people under these circumstances. Families could be put in a financial bind if the breadwinner is injured. Even if the one injured is not the breadwinner, perhaps a parent might be in a position of having to assume doctor and hospital bills. So I think this amendment is very reasonable. It does not do away with these devices and if the bar owner feels that it offers enough inducement in terms of bringing people into the establishment and creating profit, he will not mind assuming the liability that might inhere in such a dangerous situation. Where children are concerned or people who might have the mentality of children are concerned, the law recognizes what it calls an attractive nuisance. It means that even on your own property you cannot have something which will draw a person onto that property which

might hurt the individual. So even though it is your property and under ordinary circumstances the person coming on your property would be viewed as a trespasser and you would owe no special duty of care to a trespasser, the fact that what you put there would draw somebody onto your property makes you liable under circumstances where you ordinarily would not be. These devices can be by analogy, equated with an attractive nuisance. They do pose a hazard to the public and the Legislature I think should take note of these types of circumstances and adopt an appropriate policy decision. This amendment would in no way impinge on the rights of free enterprise or assumption of reasonable risk. What it does say is that the state by the exercise of its police powers is recognizing certain dangers that exist and if an individual wants to try to reap profit from this situation there is a liability as a part of the bargain that he must be willing to assume. So I think the amendment is very worthwhile. I think it has a lot of merit and there are a number of states that are also recognizing the danger of these devices. For my part it might be better to ban them altogether. They are planning on having a rodeo in Omaha in a few days and I very seriously doubt then in my particular case where somebody may have an interest in a person being trounced and moved around by a bull, they would not let somebody come off the street and say I want to ride this bucking bull or I think I can stay on this horse so let me mount up and go out there and give the fans a show for their money. No, that would never be done. So why are we going to take a mechanical device which duplicates the moves of the live animal but we have an even more dangerous situation because at least the person in the rodeo would fall on the earth and that would absorb some of the shock. In these establishments the person falls on something much harder than the earth, does not have complete control of his or her senses, has no experience with the moves that this device will make and when an injury occurs then it might be the thing that would draw other people to watch because the possibility of injury might be what draws them. So I think an unwholesome set of circumstances exists and I think that the Legislature is totally within its rights and is properly assuming its duty to simply say to the owner of one of these establishments that if you want to have this potentially dangerous situation to draw people in, you will have to assume the liability that goes with such a thing. So I ask that you return this bill and adopt this amendment.

PRESIDENT: Before we go to the next speaker, the Chair would like to introduce from Senator Marsh's district 21 students from Lincoln Christian School with Levi Kroeker their teacher. They are up in the North balcony. We welcome you to your

April 10, 1981

LB 483

Nebraska Unicameral. We are on Final Reading but we have debate when a bill is brought back and we are debating Senator Chambers' motion to bring back the bill. The next speaker will be Senator Hefner.

SENATOR HEFNER: Mr. President, members of the body, I would like to ask Senator Chambers a question if he will yield.

SENATOR CHAMBERS: Yes, Senator Hefner.

SENATOR HEFNER: I have not had a chance to study your amendment. Is it printed in the Journal?

SENATOR CHAMBERS: Yes, can you locate it for them? When it was originally offered...

PRESIDENT: Clerk will you give the page, please.

CLERK: Mr. President, it is the amendment that was originally offered by Senator Maresh, I believe, and I believe it is on page 1284 of the Journal.

SENATOR HEFNER: Senator Chambers, is this the same amendment that you have or did you change the wording of it a little bit?

SENATOR CHAMBERS: No, I have not changed the wording, Senator Hefner.

SENATOR HEFNER: Okay. Senator Chambers, I am going to surprise you a little and I am going to support the amendment because I think it is needed. I think it is a good amendment but one other question. Okay, how...does this say that you must have a retailer's license or would this apply to, say like the dime stores that we have where we see the pony out in front or the bucking bull or some so-called mechanical device or does this just cover in the retail liquor establishment?

SENATOR CHAMBERS: Senator Hefner, let me study this a bit more because that question, and I don't even see the amendment on page 1284 so maybe I am not looking...

CLERK: It is 1283, Senator.

SENATOR CHAMBERS: Oh, I'm sorry.

SENATOR HEFNER: Okay, maybe I can come over and talk to you about it.

April 10, 1981

LB 483

SENATOR CHAMBERS: Yes, I think it does limit it to those with retailers licenses and those little things in front of dime stores do not even fit the same category but I will talk to you about that.

SENATOR HEFNER: Okay, I will study the amendment a little more and I believe I can support it.

PRESIDENT: The Chair recognizes Senator Labedz. Senator Labedz.

SENATOR LABEDZ: No, I wanted to speak on my amendment, I am sorry.

PRESIDENT Alright, Senator Labedz. Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I would urge your support for the Senator Chambers' amendment which I guess really is Senator Maresh's amendment and I wish that I had not missed this discussion earlier and I apologize to the body for missing this discussion. But I think that the waivers of liability which these individuals have signed in many cases are simply unconscionable and I think it is just incredible for us to put these individuals in this situation. Many of these individuals will come in and drink two or three beers and then get on one of these machines and that is where we run into the problems and it is not the same thing as a sport or a rodeo where we are... you don't see the rodeo officials allowing these individuals to get out there when they are drunk and passing the beers around and so forth and there is a little regulation and a little safety in an organized sport but I think this is one of the most tragic things that has occurred in the State of Nebraska. I think the waiver of liability is even, if we did not pass this bill would be of some questionable validity. But it is just, in my opinion, unconscionable for us to allow an individual to sign away his rights in this particular situation and I would urge us to support Senator Maresh who brought this issue to us and Senator Chambers and adopt this amendment and move on with it.

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Senator Nichol.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, I am amazed that the attorneys have not been saying something about this. I have always thought, and I am not a lawyer, that responsibility was based on negligence, that liability is based on negligence. Here we are, I think we

are creating a new field of law. Here we are saying, it doesn't matter what happens, you are responsible. I don't think that is the way it ought to be. If we want to remove these mechanisms from any place I might support that, especially a place where people have been drinking intoxicants but I don't think we should create a new field of law where no matter what happens you are responsible. How would you like it if no matter what you did you are responsible for anything that happens to me and I think that is exactly what this says. I think we should open our eyes and look at what we are doing. Even though we might not like people who drink to excess or even to the point where they are not in charge of all their faculties or faculties, but we are saying here, no matter what happens, Mr. Operator, you are responsible and I don't think that is responsible legislation. I oppose the amendment.

SPEAKER MARVEL: Senator Hoagland. Senator Vickers.

SENATOR VICKERS: Mr. President and members, I rise to oppose the Chambers amendment also as I opposed this same amendment when Senator Maresh brought it to our attention a few days ago much for the same reasons Senator Nichol pointed out. But I would again point out to this body that I believe what we are talking about here is a fad that is sweeping the country at the present time and probably will go away in a few years. But I think the bottom line is, what is the responsibility of government in telling individuals how they should operate at all times at all places. After all these are people that have made the decision, may be wrong, but made the decision to sign a piece of paper waiving their right and then getting on this machine, people that probably in most cases do not have the faintest idea of the various moves that a mechanical bull or the real thing could make. That is probably true. Maybe we should, if this is what the role of government should be, maybe what we should do is expand this amendment to say that whenever anybody enters one of these retail establishments they should sign a waiver of any liability for anything that they might do after downing a few beers or a few drinks anyhow if that is a concern. If the people think that you go in there and you get a few under your belt and you do a few things that maybe you shouldn't do and you get on one of these machines and probably you shouldn't have and you wind up getting hurt and, therefore, it is not your fault, I guess I can't see that there is a whole lot of difference with that than I can somebody going in and downing a few, maybe getting up on the dance floor and fall down and breaking their neck or falling off a bar stool, stepping out on the sidewalk and fall off the curb or various other things an intoxicated person might do.

If this is what the intent of the government should be then possibly we should have waivers of liability signed when they first come in the door so that any action they might do from thereon, this person would be, in fact, liable. I don't think that is a role of government to protect everybody from everything everywhere and without going into the details as I did the other day about how these machines, and I never saw one of these machines, but I assume they are made to simulate the actions of a bull. I am sure they can do things that would damage people. There is no questions about it. The real thing can too. I would point out to Senator Chambers though that there are some amateur rodeos in the State of Nebraska that might be operated a little bit differently than the one that is going to be held in Omaha and somebody could just walk in off the street without any previous experience, pay his entry fee and climb on one. It has happened in the past and it will happen in the future and I don't think it is our position or our place to say that it should not. So I think this is a serious motion. I think many people consider it perhaps rather frivolous but I believe it has some serious implications as far as law is concerned and we should look at it very carefully and I urge this body's rejection of the Chambers amendment.

SPEAKER MARVEL: Senator Koch, do you want to speak? Okay. Senator Lamb.

SENATOR LAMB: Mr. President, members of the Legislature, I certainly do not want to appear to not be sympathetic to the problems that are created by these devices, however, I opposed this amendment the other day when Senator Maresh had it. I still oppose the amendment, basically on the grounds that several people have mentioned today. Senator Chambers, I do have a possible solution that you might want to consider and that would be to require seatbelts on these devices so that they would not be thrown off in the first place.

SPEAKER MARVEL: In the North balcony there are 7 students from Rock County, Senator Lamb's district, from Newport Grade School, Sybrant Community School, Pam Peterson is the teacher. Do you want to raise your hands so we can see where you are, folks? Welcome to the Unicameral. And from Senator DeCamp's area 36 students, 13 adults from Neligh, Nebraska, Antelope County Rural School, fourth to fifth grades, Sara Twiff is the sponsor and you are in the North balcony. Will you show us where you are. Welcome to you. Senator Hoagland, we passed over you a while ago. Do you want to speak now?

SENATOR HOAGLAND: Mr. Speaker and colleagues, I would like to rise in support of Senator Chambers' and Senator Maresh's amendment. I think it is a good one. As you know, we lawyers by virtue of our profession are constantly trying to weigh the balances in these kinds of damage claims and the interest between proprietors in this case and customers and so these considerations run through our minds all the time as part of our profession and I have not had the opportunity to hear Senator Cullan speak on this issue but I would guess, based on his law school education, he concurs that this is a good amendment and that this is an appropriate public policy decision to make, that we are going to impose liability on bar owners if they want to let these bucking broncos run loose inside their establishment. Now I have suggested to Senator Chambers that the following language be added to his amendment to tighten it up and clarify the intent and he is still considering whether or not to add this and I would call this to Senator Maresh's attention as well. I would suggest that we add a sentence to that amendment saying, "contributory negligence, assumption of the risk and the like shall not be a defense in any such action," to make it absolutely clear that the liability is to rest with the bar owner. So again, I support it and I would encourage the addition of this language to make it even clearer than it is right now. Thank you, Mr. Speaker.

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, perhaps we are looking at one of those situations where the appropriate question would be, "Am I my brother and my sister's keeper?" Now the first time that question was asked was in a set of circumstances where an individual had disappeared mysteriously and when the whereabouts of that individual was inquired after this is the question that was asked: "Am I my brother's keeper?" Well there are sets of circumstances where we must become our brother and our sister's keeper. This is why Senator Higgins was pushing for an amendment to a bill the other day which would say that when people are intoxicated they can be taken off the streets despite the right that they have to drink, despite the right they have to use the public street and quasi public facilities, they, by consuming certain substances, can put themselves in a position where they have limited ability to look out for their welfare and under those circumstances they can be handled in a way by the state, that a person not under such influence could not be handled. So what we are saying especially in connection with liquor establishments and, by the way, with the inclusion of the language, "retailer's license issued pursuant to Chapter 53, Section 1," that is the Liquor Control Act so

it would restrict it to the establishments that have retailers licenses under the Liquor Control Act but we are seeing a proliferation of things that are demeaning and degrading to people which would not ordinarily occur were they not under the influence of alcohol. They have situations where women wrestle in mud and in jello. They have situations where they want them to fight like men with no training, with no protection and the object is to see somebody hurt. So when we begin to see numerous activities which do not in themselves have an uplifting purpose, we are becoming complicit with those types of things when we don't even impose the type of regulation that the state ought to be concerned about. I would remind people like Senator Nichol and others who may oppose this amendment, that a retailer obtains a liquor license not primarily for purposes of entertainment. Now people may behave in an entertaining fashion when they are under the influence but we are talking about a device whose purported purpose is entertainment. So you are not dealing with the right of this person with a liquor license to sell liquor and do every other thing that that license allows. These bulls and other devices are an added inducement that have nothing to do with the liquor license itself which will bring in additional profit. So the state should create a climate where the people operating these devices will be on notice that it might to be their best interest if they are going to have these devices to regulate and adjust them so that the great degree of danger that exists in their use now would be diminished considerably. Perhaps what this might do is reduce these bucking, violently whirling, twisting, plunging, lunging devices into a gentle rocking motion like one would have in a rocking chair or in a little rowboat which is being moved about on the surface of a placid lake. Now that is not too bad and as a matter of fact, that motion might help the liquor establishment because it may cause a certain churning in the stomach which will result in a regurgitation of the contents. Once this has occurred there is new capacity for ingestion of the substance that is covered by Chapter 53, or whatever it is, Section 1. What I am really trying to say is that this amendment will not restrict any rights that the person has under the retailers' license. All it is saying is that if you are going to utilize a device that offers a real and genuine danger to those who utilize the device, there is a liability that you might face and since the adjustment is in the power and under the control of the one who operates the device, by that I mean, the one who owns the establishment, this bill might result in them reducing the amount of danger involved in the utilization of these devices.

SPEAKER MARVEL: Senator Burrows, your light was on. Do you wish to speak before we vote?

SENATOR BURROWS: Mr. Chairman, members of the body, I think comparison was made with a rodeo on this liability and I think that is totally erroneous. If you get on an animal or you take part in a rodeo you are dealing with an animal that isn't going to calculate to throw you off in a high spin but nothing but a dumb animal but in this case with a mechanical bull the person riding the bull may sit there in a line where they are running that bull with moderate speed and then Joe Doaks gets up there and they shove the speed and spin him off at several times the speed maybe previous. So the person that holds the button and controls the speed on the mechanical bull has full control in spinning that person off. Now that person that has control should take the responsibility if that other person gets injured. You are not dealing with a dumb animal in this case. You are dealing with a person, with a person in that bar that has control of another person's throw off that bull. It isn't dealing with animals. I think it is a totally different criteria. I think it is reasonable that in that bar when people come through that line and get on that mechanical bull, that the owner maintains some liability on that thing if he is going to set a situation where someone is set up to get spun off very rapidly where they haven't even seen that happen before when they go into that bar. So I certainly support this amendment. I think it is a good amendment and a reasonable one. Thank you.

SPEAKER MARVEL: Senator Koch.

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

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

CLERK: 31 ayes, 1 nay, Mr. President.

SPEAKER MARVEL: Debate has ceased. The Chair recognizes Senator...do you want to close? Okay. The motion is to return the bill for a specific amendment. All those in favor vote aye, opposed vote no. The motion is to return the bill. Have you all voted?

SENATOR CHAMBERS: Mr. Chairman, I would like to ask for a roll call vote after everybody is in their seat. I know we are on Final Reading so I won't ask for a Call of the House.

SPEAKER MARVEL: Do you want to record your presence and then we will go into the roll call. Senator Wesely, do you want to record your presence, please. Senator Rumery. Okay, there is six absent. Call the roll.

April 10, 1981

LB 483

CLERK: (Read roll call vote as found on pages 1396-1397 of the Legislative Journal.) 17 ayes, 26 nays, Mr. President.

SPEAKER MARVEL: Motion lost.

CLERK: Mr. President, I now have a motion from Senator Labedz to return the bill to Select File for a specific amendment and the amendment is on page 1362, Mr. President.

SENATOR LABEDZ: Are we on the correct amendment now? There was one previous to that that was withdrawn. Thank you very much. Mr. Speaker, members of the Legislature, I am very sorry that I have to bring LB 483 back from Final Reading but as you all know we did have a hearing on Monday and this bill was discussed at length and there was several questions asked of the representative of the Liquor Commission and the amendment that is going to be discussed at this moment does not make any other changes other than correcting the language, very small changes, changing the wording but the concept of the original amendment that I put on 483 is still there. It does not change anything but puts the amendment in correct form and I urge you to vote for the amendment or bring the bill back from Final Reading so we can adopt the amendment.

SPEAKER MARVEL: Senator Newell, do you wish to speak to the Labedz amendment?

SENATOR NEWELL: Are there any other lights?

SPEAKER MARVEL: There are three lights. Senator Hefner.

SENATOR HEFNER: Mr. President, colleagues, I rise to support this amendment. We did have a hearing on LB 555 the other night. It was a very informative meeting. We asked the executive director of the Liquor Control Commission to appear for informational purposes only, which he did, and he gave us a few ideas that we could use if we wanted to to explain what the term generic means and of course we have included that now on line 3 and this amendment is on page 1362 if you want to follow along with me. This is an amendment to LB 483 and it also, besides spelling out what generic label means, it also spells out what private label means and I think this is very good because it makes it perfectly clear what our intent is here. On line 17 it also describes what are not violations and I don't think Senator Labedz mentioned it but we have added the emergency clause in this amendment. I felt that we should have passed some form of legislation last year already because this is when the Attorney General brought the charge against this certain company and it was brought up at the hearing. Well the company did not want special legislation.

Well, this particular company still does not want this special legislation and I feel that...(gavel)...thank you, thank you, Mr. President. I feel that...or I don't think that any business or industry wants special legislation to protect itself but I think it is the intent of this body that we want to change this law and so at the present time this is the best way to do it and I rise as a rural senator. I don't think this is just an Omaha problem. I think it is a problem that covers the whole state and so I think we ought to get together this morning and everybody support this amendment. Thank you.

SPEAKER MARVEL: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I just wanted to make a short comment by way of reinforcing the legislative process. We often wonder from time to time what good our public hearings do but even this public hearing did considerable good, looking at the amendments. I think they are more than just technical. They make some substantive changes, none which I object to, but I think we should just keep in mind when we have these motions to expedite and motions to push things through the process so fast that it is a good thing that we do have public hearings and specifically in this case it is a good thing that we had a public hearing because a lot of good came from it. Thank you.

SPEAKER MARVEL: Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I would like to ask Senator Labedz a question, please. Senator Labedz, I know this is an important issue and I certainly do not want to do anything to hamper it but after listening to Senator Hefner and Senator Beutler, will this amendment and this bill correct the problem as you see it that exists today in Omaha with Falstaff?

SENATOR LABEDZ: It certainly would, Senator Schmit, although as Senator Hefner said, Paul Kalmanovitz in San Francisco did not push for legislation. A suit has been filed in court and he contends that the law as it stands, that he was not in any violation whatsoever and he wants to prove that in court but we feel that this legislation should be passed and it is very important that it does be passed because regardless of the outcome of the court case, we want a law on the books that will protect this from happening again and I might add, the way that the law reads now, we can ship in generic and private label beer from another plant but they interpret the law to mean that our plant here in Nebraska cannot sell it from their own plant. So it is sad when we can bring it in

April 10, 1981

LB 483

from another state but we can't manufacture it from our own plant.

SENATOR SCHMIT: Now you said there is a current case then, pending in court on this issue.

SENATOR LABEDZ: Yes, Falstaff has filed a suit against the Liquor Commission saying there was no violation of the law as it stands now.

SENATOR SCHMIT: Well then, specifically, does your amendment deal with that question?

SENATOR LABEDZ: Yes, it makes it very, very clear that there would not be any violation as Falstaff is working its process now.

SENATOR SCHMIT: Well this amendment would solve the problem then.

SENATOR LABEDZ: It definitely would, yes.

SENATOR SCHMIT: I see. You do not see any problem with that, the fact that the issue is already in the court and we are taking action on the floor at the time that the issue is before the court?

SENATOR LABEDZ: No, Senator Schmit, because I do not see any problem because we have had several attorneys working both from the Liquor Commission and the attorneys in Omaha that I had working on it and they see no problem. The court case can go ahead.

SENATOR SCHMIT: What would be the impact if we would pass this? Will that have an impact upon the court case?

SENATOR LABEDZ: No. They claim it will not.

SENATOR SCHMIT: It will not.

SENATOR LABEDZ: No, definitely not.

SENATOR SCHMIT: Well then, Mr. President, I would just like to say that I also support the amendment. I agree with Senator Labedz and Senator Hefner and Senator Beutler. The issue is of vital importance. I think that sometimes these things come to our attention by virtue of the fact that a case is filed perhaps and I think maybe in the long run it does us all a service by the very fact that as a Legislature, and as Senator Hefner pointed out, we probably should have done it last year but without the urgency of a court action

April 10, 1981

LB 483

why there was no real pressure on us to take action so...

SPEAKER MARVEL: You have one minute.

SENATOR SCHMIT: ...I would certainly support the amendment and support the bill and hope that it becomes law and that it does help to resolve a very crucial problem that does exist there in the City of Omaha.

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, not having had the chance to review the amendment thoroughly, but knowing that it deals with the Falstaff situation, I would like to ask Senator Labedz a question.

SENATOR LABEDZ: Yes, Senator Chambers.

SENATOR CHAMBERS: Senator Labedz, does this amendment contain anywhere within it an apology to Mr. Kalmanovitz for what has been done to him by the State of Nebraska?

SENATOR LABEDZ: Absolutely not. I think that the signatures that he has been receiving, and he tells me now it is close to fifteen thousand, more than apologizes to Paul Kalmanovitz.

SENATOR CHAMBERS: Thank you. Members of the Legislature, I have thought about the matter and I think there should be an apology offered to him by the Legislature. I think there should be an apology about how the Governor conducted himself which I was not totally aware of until I read Mr. Kalmanovitz's letter in the World Herald and when a man with as many millions as this man has got, has been handled in this fashion, I think that is deplorable, especially in a Legislature in a conservative state like Nebraska where business is so important and where the people in business are entitled to such protection and consideration. There is no way I can vote for this amendment without an apology. Why look at all the money that man has spent just on the letters alone. Then he brought the senators out there and may have given them some of his private label beer, I don't know what he did, but he has certainly brought Omaha into the attention of a lot of people and for having done that, I think he is entitled not only a vote of thanks and appreciation as the amendment drafted now will do, but he is, in fact, entitled to an apology and as an addendum to that apology there ought to be a chastisement of the Governor for not running right over to the Liquor Commission and telling them they had better rule in this man's behalf. I think also we should let the courts know that they may

have a better chance of getting their salary bills if they will rule in a way that Mr. Kalmanovitz wants but there is a greater threat to the courts than the Legislature not giving the salary increase that is wanted. Mr. Kalmanovitz may bring out his pen and write a letter about the courts and about the judges and you know how much harm that can bring to the judiciary of this state. So if you are going to bring this bill back and bow down at least to the knee level, I think you ought to lean forward in the completely prostrate position and offer him the things that I am saying. Oh, I know he is chuckling wherever he is. He probably has somebody on the telephone here with a hotline. I don't know if they put a red telephone in here straight out to California or not, but somewhere near the Capitol there is one and they are probably not just telling him what is happening, they are holding his receiver right up to the little box that lets him hear what we are talking about. So the next letter that he writes, even if what I am offering does not succeed will, I am sure, include praise for me for trying to get him what he is entitled to from this Legislature. There is one point that Senator Schmit raised and I think it is worthy of consideration and that is the impact that something like this might have on the court case that is pending. Now, the man was not fined anything. Nothing was done to him at all. Of his own volition he decided to tell Omahans that he was going to close the plant. So I don't know what other issue remains for the court to determine if the Legislature makes legal that which the Liquor Commission has voted is illegal and I wish one of the other lawyers might consider this. I don't practice law, so I am not that conversant with how this kind of bills will impact on a court decision or a case pending before the court but it seems to me that if the issue is whether or not the agreement that Falstaff has with Safeway and any other store violates the law because it is giving something to a retailer which is not allowed by the law and you pass a law that makes that legal, I don't know what point there is for the court to look at. There is no question of law anymore because the law has been changed. There is no question of Mr. Kalmanovitz seeking damages because he was not fined and was not made to lose anything. The only ones who lost were those poor people who work at his plant and call him "Uncle Paul" when "Uncle Paul" told all his nephews and nieces, I am going to kick you right out on the street and close this plant to show you how much I care about you. This thing is so confusing to me. That is why I am offering this amendment, I haven't offered it as an amendment but I wish you would consider it. Don't vote to bring the bill back with the way Senator Labeledz has her amendment and if you fail to bring it back, then I will offer a substitute

April 10, 1981

LB 483

amendment which does everything she wants to do but will also include an apology to Mr. Kalmanovitz and a word or two of chastisement for the Governor for being so irresponsible. Thank you.

SPEAKER MARVEL: Senator Higgins.

SENATOR HIGGINS: I call the question, Mr. Speaker.

SPEAKER MARVEL: Do I see five hands? Okay, shall debate cease? Record. Sorry. Okay, record.

CLERK: 27 ayes, 0 nays to cease debate, Mr. President.

SPEAKER MARVEL: Debate is ceased. Senator Labedz, do you want to close on your motion?

SENATOR LABEDZ: Just very briefly. I would like to address a couple of remarks to Senator Chambers. I wholly agree that we do owe Mr. Kalmanovitz an apology and I have done that almost every day since I have gotten involved with Mr. Kalmanovitz. I believe also the people of the State of Nebraska have been writing to him because as I speak to him almost daily he tells me that the letters are pouring in and people are not only apologizing but they are angry that this had to happen and that for almost thirteen months, and it was way back I believe in March of 1980 that a telegram was sent and he was fearful that the plant was in danger and so stated and as far as apologizing to him, I certainly would support Senator Chambers on that but things are going beautifully now and as I mentioned the other day, he is going to start constructing a warehouse which gives me the impression that he is going to continue with the Omaha plant and it is very, very necessary. So I urge you to pass this amendment so we can get on with LB 483 and get it passed. Thank you very much.

SPEAKER MARVEL: The motion is to return the bill to Select File. All those in favor of that motion vote aye, opposed no.

SENATOR CLARK PRESIDING

SENATOR CLARK: Record the vote.

CLERK: 29 ayes, 1 nay on the motion to return the bill, Mr. President.

SENATOR CLARK: The bill is returned, Senator Labedz. Do you want to attach your amendment?

April 10, 1981

LB 483

SENATOR LABEDZ: I move for the adoption of the amendment.

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

CLERK: Senator Clark voting aye.

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

CLERK: 29 ayes, 2 nays, Mr. President, on the motion to adopt the amendment.

SENATOR CLARK: Senator Kilgarin, would you like to advance the bill?

SENATOR KILGARIN: I move LB 483 be advanced to E & R for engrossment.

SENATOR CLARK: The question is to readvance LB 483. All those in favor say aye, opposed. The bill is readvanced. We have a motion on the desk.

CLERK: Mr. President, Senator Chambers moves to return LB 483 to Select File for a specific amendment. The amendment would read as follows: (Read amendment as found on page 1397 of the Legislative Journal.)

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I talked to some of the other senators and apparently there would be less opposition to banning them from liquor establishments, the premises of liquor establishments, altogether rather than not allowing the retailer to limit his or her liability. So to make it clear what this amendment would do, it would ban from liquor establishments these devices that we have been discussing and I won't go through any of the debate that has already gone forth but I want you to understand clearly what the amendment does and I hope that you will return the bill to attach this amendment.

SENATOR CLARK: Is there any discussion on the amendment? If not, the question before the House is the adoption of the amendment. All those in favor vote aye...the motion is to return the bill. All those in favor vote aye, all opposed vote nay. Have you all voted? Yes.

SENATOR CHAMBERS: To save time again, I will ask that we check in and then take a roll call vote and we can proceed.

April 10, 1981

LB 483, 205, 328, 446

SENATOR CLARK: Everyone will check in, please. Will you all check in, please. Senator Burrows, Senator Warner, Senator Cullan, Senator Kilgarin, Senator Cope. Senator Cope, will you check in, please. Senator Beutler, Senator Warner, would you check in, please. Senator Rumery. Senator Warner and Senator Rumery. Senator Rumery, will you check in, please. Call the roll.

CLERK: (Read roll call vote as found on page 1398 of the Legislative Journal.)

SENATOR CLARK: We have five members from the Communications Workers of America in the North balcony. Will you hold up your hands so we can see where you are, please. There they are. Welcome to the Legislature.

CLERK: Mr. President, Senator Dworak voting yes.

SENATOR CLARK: We also have six students from rural District #4, Antelope County is Senator DeCamp's county. Mrs. Scranton is the teacher. They are in the North balcony. Will you hold up your hands, please. Welcome to the Legislature.

CLERK: 17 ayes, 21 nays, Mr. President, on the motion to return.

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

CLERK: I do not.

SENATOR CLARK: Senator Kilgarin. Senator Labedz, do you want to readvance the bill. I'm sorry, it has been readvanced. We will go to item #5, Select File. The first bill, LB 298.

CLERK: If I may, right before we do that, a few items to read in.

SENATOR CLARK: Go right ahead.

CLERK: Senator Schmit would like to print amendments to LB 328. (See pages 1398-1401 of the Legislative Journal.)

I have Attorney General's opinions, one addressed to Senator Chambers regarding LB 205, one to Senator Marsh regarding LB 446, one to Senator Chambers regarding the City of Omaha's use of eminent domain. (See pages 1401-1408 of the Legislative Journal. Senator Kremer would like to be excused Monday and Tuesday.

April 10, 1981

LB 243, 17, 22A, 59, 158A,
167, 271, 317A, 326, 483

SENATOR GOLL: Mr. Chairman, members of the Legislature, the hour is late. I have no prepared minutes but I just want to say as one who has been involved with an NRD development very closely, very personally, that I would stand in opposition to Senator Sieck's motion. I know people that are on the NRD boards, know them personally. They are fine people. They are elected by us. They do a job. They do it to the best of their ability, and though it is no time to become dramatical, when you say "eminent domain" to me, it is like running in front of that big red bull out in the pasture and no fence within a good three wood shot, and as far as I am concerned, Senator Schmit, the ratio should have been fifty percent instead of seventy-five, and I think we have got to look at this question with a lot of sincerity and purpose in our views. I am for the bill. I am against the proposed kill amendment. Eminent domain is bad. Thank you, Mr. Chairman. It is 11:58 a.m.

SENATOR CLARK: I think we are going to stop right here and we are going to continue this afternoon with priority bills on General File so we will continue with this bill, after the Clerk reads some things in, at one-thirty.

CLERK: Mr. President, Senator DeCamp would like to print amendments to LB 483; Senator Kremer to LB 326.

Mr. President, your Enrolling Clerk respectfully reports that she has presented to the Governor LB 17, 59 and 167.

Your committee on Enrollment and Review reports LB 22A correctly engrossed; 158A correctly engrossed; 317A correctly engrossed; and 271 correctly engrossed. (Signed) Senator Kilgarin.

SENATOR CLARK: Senator Cope, would you like to recess us until one-thirty this afternoon?

SENATOR COPE: Mr. President, members, I move we recess until one-thirty.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed nay. We are recessed until one-thirty at which time we will take up General File priority bills.

Edited by Arleen McCrory
Arleen McCrory

April 13, 1981

LB 11, 17, 59, 132, 167,
LB 205, 253, 253A, 284,
LB 284A, 329, 333, 366,
LB 483

first one now and then see how we get along.

CLERK: Mr. President, if I may, right before we go to that, your committee on Enrollment and Review respectfully reports LB 132 correctly engrossed; 253, 253A, 284, 284A, and LB 483 all correctly engrossed.

A letter from the Governor addressed to the Clerk. (Read. Re: LB 59, 167, 17 and 205. See page 1446, Legislative Journal.)

Senator Wagner would like to print amendments to LB 11.

And your Enrolling Clerk has presented to the Governor LB 329 and 333.

Mr. President, LB 366 (Read title). The bill was first read on January 19, referred to Retirement for public hearing. The bill was advanced to General File. There are committee amendments by the Retirement Committee.

SPEAKER MARVEL: Senator Fowler, do you wish to explain the committee amendments?

SENATOR FOWLER: I do. I move adoption of the committee amendments. LB 366 is a bill that deals only with police and fire in the City of Lincoln or that is cities of the primary class. The committee amendments are a compromise, a negotiated compromise, between the police, the fire and the city administration. It is acceptable to all sides and acceptable with an amendment that Senator Landis offers. The basic thrust and the reason for the agreement is that civilian employees if you want to use that term, the nonpublic safety employees, are currently being matched \$2 for every \$1 that they contribute. The city matches \$2 for every \$1 that is contributed. The city working with its actuary developed a proposal to improve the Lincoln Police and Fire system to the point that the same matching ratio would be used and that the 7% of employees salary contributed by the police and fire would be matched with a 14% of payroll contribution by the police. So these are amendments. 366, there is a companion bill, 367. That bill was killed. This integrates the proposals. It may be less than the public safety organizations initially wanted but it is something that provides equity and comparability between the systems. I would move for the adoption of the amendments.

SPEAKER MARVEL: The motion is the committee amendments to LB 366. Okay, the motion is to adopt the committee amendments. Senator Schmit, do you wish to speak to the committee amendments?

April 16, 1981

LB 132, 483

PRESIDENT: The amendment be adopted.

SENATOR KREMER:as explained in my explanation.

PRESIDENT: All right, Senator Kremer. Any further discussion then on the motion to adopt the Kremer amendment? If not, all those in favor of adopting the Kremer amendment vote aye, opposed nay. Record the vote.

CLERK: 38 ayes, 0 nays, Mr. President, on the motion to adopt the amendment.

PRESIDENT: The motion carries and the Kremer amendment is adopted. Senator Kremer, do you want to move the bill back?

SENATOR KREMER: Yes, sir, Mr. Chairman, I now move that LB 132 be advanced to E & R for Engrossment.

PRESIDENT: Motion to advance to E & R for Engrossment. Any discussion? All those in favor signify by saying aye. Opposed nay. LB 132 is returned to E & R for Engrossment. Anything further, Mr. Clerk.

CLERK: Mr. President, Senator Beutler now moves to return LB 132 to Select File for an amendment and the amendment is on page 1494 of the Journal.

PRESIDENT: The Chair recognizes Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, I would ask unanimous consent to withdraw the amendment.

PRESIDENT: The Chair recognizes Senator Koch. Oh, okay, he doesn't...all right. It is withdrawn. The amendment is withdrawn. So we are now back to the...well, it remains where it is. It is on E & R for Engrossment. Anything further, Mr. Clerk?

CLERK: I have nothing further, Mr. President.

PRESIDENT: All right, so we will go on then to LB 483, Mr. Clerk. Go ahead.

ASSISTANT CLERK: (Read LB 483 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 483 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Record the vote.

April 16, 1981

LB 483, 146, 389

ASSISTANT CLERK: (Record vote read. See page 1506, Legislative Journal.) The vote is 41 ayes, 1 nay, 4 excused and not voting, 3 present and not voting, Mr. President.

PRESIDENT: LB 483 passes with the emergency clause attached. And that will conclude Final Reading for today.

CLERK: Mr. President, if I may, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 146 and recommend that same be placed on Select File; LB 389 placed on Select File with amendments; both signed by Senator Kilgarin as Chair.

PRESIDENT: The Chair would like to take this opportunity to introduce from Senator Carsten's District some 30 students, seniors and juniors from the Weeping Water Public School system, Larry Hammons, Instructor. They are in the North balcony. Would you welcome Weeping Water to the Unicameral? We are ready, Mr. Clerk, then for Select File, agenda item #6, LB 134.

April 16, 1981

LB 506, 44, 74, 87, 266,
173, 226A, 271, 483

propriated in this bill, there is some question about the continued operation of the Eppley Institute. This would be a shame. I urge the body's support of 506.

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

SENATOR CULLAN: Mr. President, members of the Legislature, I appreciate all the support that has come and I appreciate Senator Warner's constructive amendments to LB 506. Senator Wesely just asked a question about what the scope of the bill now is with respect to research. The \$1.2 million which we appropriated to the Department of Health will be available for research, not only for cancer related research, but for research related to any disease or medical problem that it would be caused by smoking. There are a tremendous number of smoking related diseases and so I do not believe that is an excessive amount of money for that research. I think it really is just a start and I really hope that you will join me in advancing the bill. I would, however, have to correct Senator Hefner who urged Senator Koch to start chewing tobacco instead of smoking. Senator Dworak was recently advised by his dentist not to do that and so in light of that I wouldn't suggest Senator Koch taking that habit up either. As to why we have not increased the tax on chewing tobacco and cigars, that is something that the Revenue Committee or somebody may want to look at, but if you have as many ranchers in your district as I have in mine, that is not something you want to be involved in initiating. Thank you very much and I would urge you to advance LB 506.

SPEAKER MARVEL: The motion is to advance the bill. All those in favor vote aye, opposed vote no. Record.

CLERK: 30 ayes, 1 nay, Mr. President, on the motion to advance the bill.

SPEAKER MARVEL: Motion is carried. The bill is advanced. Go ahead.

CLERK: Mr. President, your Enrolling Clerk respectfully reports she has presented to the Governor for his approval LB 74, 44, 87, 271 and 173.

Mr. President, a new A bill, LB 226A offered by Senator Haberman. (Title read.)

Mr. President, LB 483 is ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign reengrossed LB 483. We are now ready for LB 266.

April 16, 1981

LB 44, 74, 87, 113, 271, 298,
327, 328, 331, 404, 478, 486,
252, 241, 483

not going to be built for a variety of reasons, environmental costs, eminent domain and many other reasons. You start talking about building a project and immediately you have a whole group of people that rise up in arms to it. We all know that, but yet it is nice to stand up on the floor and make glowing speeches about how we need to store more water. But now when we are talking about an issue where we might be able to save some of that water in the State of Nebraska although it might not be in your area, it might not be in your basin, you might have to drive a couple hundred miles to go fish in it, suddenly you don't want to do that and you want to put language in the statutes that I assure you is going to prohibit it from happening. I suggest that reasonable people that are of conservative nature should agree with me to remove the language in lines 13 and 14.

SPEAKER MARVEL: Okay, the motion is on the second half of the Vickers amendment, is the adoption of that amendment. All those in favor vote aye, opposed vote no. Have you all voted? Senator Vickers, where are you? Oh, there you are. Eight are excused, Senator Vickers.

SENATOR VICKERS: Record the vote. Oh, make it...I want a record vote.

SPEAKER MARVEL: Okay, record.

CLERK: (Read the record vote as found on page 1519 of the Legislative Journal.) 10 ayes, 23 nays, Mr. President, on adoption of the amendment.

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

CLERK: Your Enrolling Clerk has presented to the Governor LB 483.

I have a communication from the Governor addressed to the Clerk. (Read communication regarding the signing of LBs 44, 74, 87, 271 and 483 as found on pages 1520 and 1521 of the Legislative Journal.)

Mr. President, Senator Fowler would like to print amendments to LB 404. (See pages 1521 and 1522 of the Journal.)

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 241 and find the same correctly engrossed; 298, 327, 328, 486, 113, and 331 and 478, all correctly engrossed, Mr. President. (See pages 1524 and 1525 of the Legislative Journal.)