

January 13, 1982

LB 127A, 287, 401,  
498, 820-824

hear your votes, so would you please cooperate with him and with us. Proceed.

CLERK: (Read the roll call vote as found on pages 269 and 270 of the Legislative Journal). 22 ayes, 20 nays, Mr. President, on the motion to advance the bill.

SPEAKER MARVEL: The motion fails. Senator Landis. The Clerk has got some items to read in and then we will go to LB 410.

CLERK: Mr. President, new bills. LB 820 offered by the Urban Affairs Committee. (Read title as found on page 270 of the Legislative Journal). LB 821 offered by the Urban Affairs Committee. (Read title). LB 822 offered by Senator Fowler. (Read title). LB 823 offered by Senator Chronister. (Read title). LB 824 offered by Senators Haberman, Nichol and Labeledz. (Read title). See pages 270 and 271 of the Journal).

Mr. President, I have a series of notice of hearing reports. The first is offered by the Urban Affairs Committee for January 20 and January 27, signed by Senator Landis. One for the Miscellaneous Subjects for January 28, 29, February 4, 5 and 11, signed by Senator Hefner. A third from the Ag and Environment Committee for January 28 and 29, signed by Senator Schmit. One for the Revenue Committee for Monday, January 18. That is offered by Senator Carsten as Chairman. (See pages 271 and 272 of the Journal).

Mr. President, new A bill, LB 127A offered by Senator Sieck. (Read title). (See page 272 of the Journal).

Mr. President, the Speaker gives notice of priority bill scheduling for general floor debate.

Mr. President, Senator Koch would like to print amendments to LB 498 in the Legislative Journal. (See page 273 of the Journal).

Mr. President, your committee on Nebraska Retirement Systems to whom was reported LB 287 instructs me to report the same back to the Legislature with the recommendation that it be advanced to General File with amendments. That is signed by Senator Fowler as Chairman. (See pages 273 through 275 of the Legislative Journal).

Mr. President, Senator DeCamp would like to print amendments.....that's all I have, Mr. President.

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LB 370, 824

SPEAKER MARVEL PRESIDING

DR. PALME.: Prayer offered.

SPEAKER MARVEL: The next item of business is roll call. Will you please record your presence?

CLERK: Mr. President, Senator Cullan would like to be excused for the day.

SPEAKER MARVEL: Please record your presence. Senator Von Minden, Senator Lowell Johnson, will you please check in? Record.

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

SPEAKER MARVEL: Okay, do you have anything for item #3.

CLERK: Mr. President, Senator Remmers would ask unanimous consent to add his name to LB 324 as cointroducer.

SPEAKER MARVEL: Hearing no objections, so ordered.

CLERK: Mr. President, your committee on Judiciary gives notice of cancellation of hearing, and your committee on Government, Military and Veterans Affairs gives notice of public hearing on January 28, February 4 and 5, and that is signed by Senator Kahle as Chairman.

SPEAKER MARVEL: Then we take up General File, item #5. The first bill, LB 349, will be passed over. The bill is laid over. Senator Haberman is home ill. The next item is LB 370.

CLERK: Mr. President, LB 370 offered by Senator Goll. (Read title.) The bill was read on January 19 of last year and was referred to the Education Committee for public hearing. The bill was subsequently advanced to General File. There are committee amendments attached by the Education Committee, Mr. President.

SPEAKER MARVEL: Senator Koch.

SENATOR KOCH: Thank you, Mr. Speaker. LB 370 deals with proprietary schools and the amendment that we are placing on this piece of legislation would define a branch facility and the application procedures for those types of schools and I ask for the adoption of the amendment and Senator Goll will explain the bill.

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LP 208, 210A, 335, 824,  
846, 36

education, they are accredited, or other kinds of things, they are still accredited. So when that parent goes to move, he is going to have to prove there is indeed a very special needs that they can prove in order to get that favorable decision to do that job. And this is very specific, Senator Remmers. I would be happy, and Mr. Siefkes, we will be happy to sit down and visit with you. Move the bill, as Senator Beutler said. If there is some things that we feel reasonable, we will make those changes and I assure you of that. Thank you. That is my closing. I would move for the advancement of LB 208 as amended to E & R initial.

SENATOR CLARK: The question is the advancement of LB 208 to Initial. All those in favor vote aye, all those opposed vote nay. Record the vote.

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

SENATOR CLARK: The bill is advanced. Next order of business is 36E. The Clerk would like to read in.

CLERK: Mr. President, Senator Marsh would like to print amendments to LB 335 in the Journal.

Mr. President, I have an announcement from the Speaker moving LB 359 from Passed Over to General File.

Mr. President, a new bill, LB 210A (read title); a new bill, LB 846 (read title). (See pages 307, 308, Journal.)

Your committee on Miscellaneous Subjects gives notice of hearing in Room 2230 for February 18 and 19. Signed by Senator Hefner as Chairman.

Mr. President, Senator Kilgarin asks unanimous consent to add her name to LB 824 as cointruder.

SENATOR CLARK: No objection, so ordered.

CLERK: Mr. President, LB 36 was a bill introduced by the committee on Agriculture and Environment. (Title read.) The bill was first read on January 8 of last year. It was referred to the Ag and Environment Committee for public hearing. The bill was advanced to General File, Mr. President. There are committee amendments pending by the Ag and Environment Committee.

SENATOR CLARK: Senator Schmit, on the committee amendments.

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LB 525, 824, 847

feel paraphrases quite well why such a change from transactional to the proposed use immunity is necessary. "With transactional immunity, all the witness has to do is mention the transaction; he does not have to fill in the details. So his attorney can tell him to just mention it, and then say, 'I don't remember.' But with a 'use' statute, a smart attorney advises his client to tell all he knows because the more he tells the less can be later used against him. So 'use' statutes encourage fuller disclosure by witnesses, and that is what they are really all about." With this in mind, I urge the passage of LB 525 to Select File.

SPEAKER MARVEL: The motion before the House is the advancement of LB 525. All those in favor of that motion vote aye, opposed vote no. Record the vote.

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

SPEAKER MARVEL: Motion is carried. Bill is advanced.

CLERK: Mr. President, if I may real quickly, Senator Warner would like to be excused Monday morning.

Notice of hearings from Judiciary for February 2.

A new bill, LB 847, (read title).

Mr. President, Senator Lowell Johnson would like to add his name to LB 824 as co-introducer.

SPEAKER MARVEL: Hearing no objection, so ordered. Senator Higgins, do you want to adjourn us until Monday, January 18th at 9:30 a.m.

SENATOR HIGGINS: We are going to adjourn until Monday? Mr. Speaker, I move we adjourn until Monday, January 18th, 9:00 a.m.

SPEAKER MARVEL: 1982 at 9:30 a.m.

SENATOR HIGGINS: 1982 at 9:30 a.m.

SPEAKER MARVEL: All those in favor of that motion say aye, opposed no. Motion carried and we are adjourned until Monday, January 18th, 1982, at 9:30 a.m.

Edited by:

Marilyn Zank  
Marilyn Zank

February 8, 1982

LB 635, 654, 824, 829

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Prayer by the Reverend J. Dallas Gibson of the United Presbyterian Church. Reverend Gibson.

REVEREND GIBSON: (Prayer offered.)

SPEAKER MARVEL: Record your presence please. Okay, record.

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

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

CLERK: Mr. President, your committee on Banking, Commerce and Insurance whose Chairman is Senator DeCamp gives notice of confirmation hearing for Tuesday, February 9. Your committee on Judiciary gives notice of hearing for gubernatorial appointments for February 10. Committee on Banking gives notice of public hearing for Tuesday, February 16. That is offered by Senator DeCamp.

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 654 and recommend that same be placed on Select File; 829 Select File with amendments, both signed by Senator Kilgarin.

Mr. President, Senator DeCamp asks unanimous consent to add his name to LB 824 as coinroducer.

SPEAKER MARVEL: No objection, so ordered. It is my privilege to introduce in the North balcony students from Omaha South High School with their teacher, Sally Fellows. Will you please hold up your hand so we can see where you are? The Senator is Karen Kilgarin. We are ready for item #4, motions.

CLERK: Mr. President, Senator Kahle pursuant to our rules moves to place LB 635 on General File notwithstanding the action of the Public Health and Welfare Committee. Senator Kahle's motion is found on page 486 of the Journal.

SPEAKER MARVEL: Senator Kahle, the Chair recognizes you.

SENATOR KAHLE: Mr. Speaker, members of this august body, we never know what is going to happen on Monday mornings and Friday afternoons so I am not sure that this is a good time to try this or not but I am attempting to bring LB 635 to the floor notwithstanding the action of the Public Health and Welfare Committee. This is the same bill that I introduced last year, last session, as LB 107 and the

LB 577, 579, 601, 605, 642, 644, 651, 662,  
677, 678, 696, 697, 718, 718, 719, 720,  
728, 729, 739, 743, 764, 767, 767A, 775,  
776, 778, 784, 792, 796, 807, 824, 825,  
828, 839, 845, 869, 877, 890, 892, 931,  
941, 951, 952, 961, 962

March 9, 1982

SPEAKER MARVEL PRESIDING

REV. MORRIS VENDEN: Prayer offered.

SPEAKER MARVEL: If I could have your attention for a moment before we proceed. The chairmen had a meeting today and it was agreed that we would attempt to control debate as we have not done too well in the last few months and that we would try, for instance, with 652 to have the debate and the vote on advancement after one hour and that we try to have the pros and the cons of these issues so it doesn't take forever to get the point across. This time we're in a position where we either try to limit debate or many of the other issues will simply go down the drain. So the Chair would appreciate, the chairmen would appreciate your cooperation in trying to give people an opportunity on both sides and not spend all day in the discussion. Record.

CLERK: There is a quorum present, Mr. President. Yes, sir, I do have some items to read in. Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and engrossed LB 579 and find the same correctly engrossed; 662 correctly engrossed; 677 correctly engrossed; 718 correctly engrossed; 719 correctly engrossed; 728, 729 correctly engrossed; 764 correctly engrossed and 778 correctly engrossed. (See page 1060 of the Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 720 and recommend that same be placed on Select File with amendments; 767 Select File with amendments; 767A Select File; 807 Select File with amendments; 941 Select File; 877 Select File; 577 Select File; 792 Select File; 605 Select File; 931 Select File with amendments; 796 Select File; 845 Select File; 644 Select File; 739 Select File; 696 Select File; 828 Select File; 642 Select File; 678 Select File; 775 Select File; 776 Select File; 951 Select File; 961 Select File; 952 Select File; 784 Select File; 651 Select File; 716 Select File with amendments; 743 Select File; 601 Select File; 869 Select File with amendments; 697 Select File; 825 Select File; 892 Select File; 962 Select File with amendments; 839 Select File and 890 Select File with amendments. Those are all signed by Senator Kilgarin as Chair, Mr. President. (See pages 1057-1059 of the Legislative Journal.)

Mr. President, I have a motion from Senator Labeledz to place LB 824 on General File pursuant to Rule 3, Section 18(b). That will be laid over pursuant to our rules, Mr. President.

SPEAKER MARVEL: Okay, we go to item #4 and we're talking about LB 924 and I would caution you to do your best to get

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LB 127, 127A, 421, 606, 630,  
654, 692, 703, 801, 824, 829

PRESIDENT LUEDTKE PRESIDING

REV. JOHN MINERT: Prayer offered.

PRESIDENT: Roll call. Has everyone registered your presence now? 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 stand correct as published then. Any other messages, reports or announcements?

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 127 and find the same correctly engrossed; 127A, 606, 630, 654, 692, 703, 801 and 829 all correctly engrossed. Those are signed by Senator Kilgarin as Chair.

Mr. President, your committee on Public Works whose chairman is Senator Kremer reports LB 824 as indefinitely postponed. That is signed by Senator Kremer.

PRESIDENT: We'll start with the agenda then on agenda item... we're going to reverse the items #4 and #6 according to Speaker Marvel and we'll start with agenda #6, motions, LB 421, Mr. Clerk.

CLERK: Mr. President, Senator DeCamp would move to reconsider the vote on Final Reading of LB 421. Senator DeCamp offered his motion on March 3. It can be found on page 941 of the Legislative Journal.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, people in this body are very concerned about health costs. Any time there is fraud or payment of a claim that is improper that costs everybody, whether it is for a drug abuse situation, whether it's for error through payment that shouldn't have been made, it costs everybody, not the insurance company, we all pay for it. This bill is designed to try to correct that particular problem in Nebraska. There were some reservations by some members, Senator Landis and some of the attorneys that there was some language that wasn't clear enough. Maybe that's the reason the bill failed, maybe the fact that several members were absent that day, whatever. I would

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SENATOR CLARK: One. I think Senator Warner is the only one excused.

SENATOR BEUTLER: Let it go.

SENATOR CLARK: Record the vote.

CLERK: Mr. President, Senator Cullan requests record vote. (Record vote read. See page 1118, Legislative Journal.) 19 ayes, 26 nays, Mr. President, on the motion to return the bill.

SENATOR CLARK: Motion lost. That completes Final Reading for today so we leave six bills on Final Reading. We will now take up LB 824.

CLERK: Mr. President, Senator Labedz would...first of all, I have a request from Senators Nichol, Haberman and DeCamp to add their names to Senator Labedz' motion. Mr. President, they would move to place LB 824 on General File pursuant to Rule 3, Section 18(b).

SENATOR CLARK: Senator Labedz.

SENATOR LABEDZ: Mr. President, first before I start my ten minutes, I would like to have a ruling from the Chair in order to be fair. I passed out to each member of the Legislature a three page explanation of the rules and hopefully the Senators had time to read it. So I would like to ask at this time whether the Chair would rule whether I need 25 votes or 30 votes and I believe the President also received a copy of my questions on why, and then, of course, it was in the newspaper that I needed 30 votes and I was under the assumption that I needed 25 because my motion to bring LB 824 to the floor notwithstanding the committee's action was done on the 20th day. On the 21st day the committee sent the form to the Clerk and said that the LB 824 had been indefinitely postponed. I would like a ruling from the Chair.

SENATOR CLARK: Senator Labedz, this is a very, very gray area as you very well know. However, I do not want to set a precedence from the Chair by saying that the committee action was wrong so I am going to have to rule that it will take 30 votes, that the committee action did take place on the 20th day and it will take 30 votes. Now if you would like to challenge the Chair on that, that is fine but I don't want to set a precedence from the Chair.

SENATOR LABEDZ: Mr. President, I understand how you feel and



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I, too, am very, very reluctant at any time to overrule the Chair but LB 824 is of great importance to a lot of people in the State of Nebraska and I would be remiss in my duty if I did not challenge the Chair. I would first, am I able to speak now on the challenge?

SENATOR CLARK: Yes.

SENATOR LABEDZ: Thank you. I think I did talk to many of you and especially the Chairmen of committees and I would like to go over it in very simple language what happened. On the 20th day, LB 824, I sent in a motion to the Clerk asking that I get the Legislature to advance LB 824 from the committee notwithstanding their action. At that point the Clerk had no action taken on LB 824. The following day the Clerk received a form signed by the committee with the vote.

SENATOR CLARK: Could we have it a little quiet please? Senator Labedz is talking. Please give her a chance.

SENATOR LABEDZ: Thank you very much. On the 21st day, the Chairman of the Public Works Committee submitted the form, the regular form, to the Clerk stating that the bill had been indefinitely postponed. Now you must remember that on the 20th day, he had no record. I had no...of course, I have to be truthful and say that I knew the night before that they had killed the bill but they had not submitted that report on the 20th day. Now I know that we have Senator Beutler and several Senators that are experts on the rules and I tried very hard to find out if this ever had happened before where a motion was made on the 20th day but the report was received from the committee chairman on the 21st day. Now Section 16 would appear to say that a bill is not indefinitely postponed until it has been reported. Section 18(b) would imply that final action is taken when the committee votes on the bill although final action is not defined within the rules. The Public Works, and I repeat that very often but I am sorry...I want that instilled in the minds, did not act on LB 824 on March 9th, 1982 until after the Legislature had adjourned that day so did they do it on the 19th day or on the 20th day. What is to prevent anyone from putting a motion to bring a bill out of committee notwithstanding the committee's action and then have the committee go under the balcony and immediately kill that bill after the motion was made and we must keep that in mind. That could happen. On the 20th day you put your motion up there to draw it out of committee and the committee could go under the balcony on the 20th day and kill that bill. Keep that in mind when you are voting...

SENATOR CLARK: It is absolutely impossible to hear her up

here. Would you kindly be quiet? If you want to talk, talk softly back there.

SENATOR LABEDZ: Thank you, Mr. President. I believe they understand what I am talking about. In fact, I did pass out this three page explanation of the rules and so I ask that we overrule the President on his ruling on LB 824 that it would take 30 votes rather than 25.

SENATOR CLARK: Senator Kremer, on the motion to overrule the Chair. Senator Kremer.

SENATOR KREMER: Mr. Chairman, members, I just want to clarify a few things. I am not speaking necessarily on the motion to return. I think as Chairman of the committee I need to make several statements. Number one, we did not meet hurriedly under the North balcony to consider this bill, Senator Labedz. This is not the fact. We met in our regular hearing room and not hurriedly. Secondly, the reason I did not lay the action of the committee on the Clerk's desk following the action was this, there were several that indicated to me that maybe we should reconsider the action we have taken. Consequently I agreed not to lay the bill on the desk until we had an opportunity to consider this request. However, the committee failed to get together to reconsider it. Consequently the next day then I did lay the bill on the Clerk's desk. That is just an explanation of how things happened and why they happened. Thank you.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, as Senator Labedz has indicated, she was well aware at the time that she filed the motion that the committee had killed the bill. I really fail to understand how she can then come forward to the body of the Legislature and claim 25 votes instead of 30. The committee took action on the 19th day. It was final action. The members of the committee had to do nothing more on that bill on the 19th day. They did it. The only thing that remained was the administrative detail of reporting it to the Clerk. Now I submit to you that it doesn't make much sense to establish an interpretation of the rules which requires a race to the Clerk's Office. That is fundamentally ridiculous. The majority of the committee had acted on the 19th day. Now in the little memo Senator Labedz says but the Legislature had adjourned. That doesn't make any difference at all. The Public Works Committee was still meeting legitimately. At the beginning of this year we used to have floor meetings in the morning and committee meetings all afternoon. Is it

suggested that those afternoon committee meetings were illegitimate or illegal because the Legislature had adjourned for the day or that somehow it wasn't a part of the regular proceedings? Are then all the meetings that the other committees have had in the evenings? The Appropriations Committee, how much action have they taken in the evenings? Are their actions illegitimate or somehow don't count? To interpret final action as requiring the administrative detail of the filing of the report with the Clerk really to me defies common sense. Senator Labeledz knew the action that the committee has taken. She filed the motion, and despite the fact that she doesn't have clean hands, she is arguing for 25 votes today. I suggest to you that it would be a terrible precedent and an obvious misconstruing of the rules and that it has other implications, if you are going to say that the members of the committee did not take final action when they voted to indefinitely postpone which we did on the 19th day. Thank you.

SENATOR CLARK: I would like to make two announcements here. There is 10 one to seventh grade students from District 69, Senator Warner's District. The teacher is Mrs. Jones. They are in the North balcony. Will you stand and be recognized please. Welcome to the Unicameral. Also, this is Vard Johnson's 43rd birthday and I think rolls are being passed out now. Happy Birthday, Vard. Senator Wesely.

SENATOR WESELY: Mr. President and members of the Legislature, I will tell you that as Rules Chairman the question that Senator Labeledz brings to you is not a new one and I will tell you this, that it would set a precedent counter to what has been the case in the past in this Legislature, and I think would set us in the direction that would be wrong for us in the future. I think clearly the whole question, and Senator Beutler outlined it fairly well, is that this is a question of intent. If the sequence were switched around and if the motion to lift out of committee was first made by Senator Labeledz and then the committee met and decided to kill the bill, the intent then would...the question could be raised as to the good faith effort of the committee in this area and you could ask the question, well, the motion was made before the committee action was taken, thus it seems clear in my mind that probably 25 votes would be appropriate. But sequentially remember this, the 19th day was when the vote was taken. At that point the committee action was clear, and after that fact, Senator Labeledz made her motion. She knew full well that the committee had killed that bill for all intents and purposes. So I think the intent in her own mind was that the bill had been killed, the time was right to bring the bill out of committee. So reverse those and you have a different situation.

But the sequence is I think appropriate for saying the bill was killed, ~~for~~ the motion was made and that means 30 votes and that is clear in my mind. Now you have to divorce yourself from the issue at hand, the studded tires question which is at hand, and be protective of the process because if you'd start doing this sort of thing, you circumvent the rules and you cause chaos in the future. Now you could have any certain number of events take place in the future that I think would be very bad. Let's take the example of Senator Von Minden's effort to try to raise 684. Now that bill was held in committee. We knew that Senator Von Minden was going to try and lift that bill out of committee and the decision of the committee was not to kill the bill because we felt that Senator Von Minden had indicated his desire to lift that bill out of committee and it would have not been a good faith effort to then kill that bill, to require him to take 30 votes, so we did not do that. Similarly the committee that killed LB 824, they took the action not knowing what Senator Labedz' plans were for the next day. We killed the bill because we thought the bill ought to be killed and that is all there is to it, and at that point, Senator Labedz could make any motion she wanted to. But at that point it takes 30 votes and it is clear in my mind that it is not a question of when it was laid on the desk, it is the question of the intent of the committee and the action of the committee that then had to merely be as a formality reported to the floor. I don't see any doubt in my mind that it requires 30 votes. Now keep one thing in mind, that on this vote it will take a majority of those present. So all that is required is I believe...I don't know how many are absent but perhaps 24 or 25 votes. To do that to then require only 25 votes to bring the bill out of committee, totally a circumvention of the rules and an attempt to try and manipulate the rules to bring the bill out of committee after it had been killed, I think the process is damaged severely when you do things like that. I would ask you please to be cognizant of the process and protect the process that we have had for years in this Legislature and vote against this effort to override the Chair. The Chair was proper in the ruling that it made. I support the Chair.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Mr. President, members of the Legislature, you know, one of the other issues involved here is the question of what it takes to overrule the Chair. I think that is a very important issue because it only takes according to our rules a simple majority. If the vote is 6 to 7 to overrule...if the vote is 7 to 6 to overrule the Chair, the Chair is overruled. So basically this is the simplest way

possible to change the rules of the Legislature, and that is in fact an important part of this whole issue. The issue here is whether or not the committee system should be sustained. It is not the issue of studded snow tires. It is whether or not our rules can protect us from these kinds of maneuvers because in fact it only takes a majority, a simple majority, to change basically the rules of this Legislature. Now I think we all should consider the issue here not as studded snow tires but as whether or not the Chair should be overruled. It only takes a simple majority to overrule the Chair and that is an unfair way to change the rules of this Legislature.

SENATOR CLARK: Senator Cullan and then Senator Higgins.

SENATOR CULLAN: Mr. President and members of the Legislature, from the time that the studded snow tire issue came to the Nebraska Legislature, I supported Senator Labedz' position. I have opposed Senator Newell in his attempt to eliminate studded snow tires in the State of Nebraska and I have supported Senator Labedz in her attempt to allow us to use them and I will vote with Senator Labedz to raise the bill from committee but I will not support Senator Labedz here. It should take 30 votes, not 25, to raise this bill from committee. The committee system is tremendously important. If you look at the statistics and analyze the way this Legislature operates, most bills which reach General File pass but we do retain a lot of bills in committee because the committee system is the strength of the Unicameral system and without it the Unicameral cannot function and I think it is much too easy to raise bills from committee now. But at any rate, the issue before us is what the rules are and whether or not the Speaker of the Legislature or the Chair has interpreted those rules correctly and I contend that he has. When a bill is killed should be from the date that the committee takes that action, not from the point in time when the committee chairman makes that report. The rules of the Legislature allow a committee chairman eight days, eight legislative days, to report the action of the committee to the floor. What does that mean and how does that affect this issue? Let's suppose that I am a committee chairman and my own bill is killed by my own committee. So what I want to do is get that bill before the Legislature. So I just simply hold that bill for eight full days, and in that period of time I can file the motion. Now that allows for incredible manipulation by the committee chairman when he supports his bill and I don't think that any individual ought to have the ability to manipulate the system that way. Secondly, Senator Kremer reported this bill in two days. He didn't delay excessively. He did it probably

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as quickly as the thing was typed up. He did it in the normal course of business and I don't think that this ought to be a loophole for Senator Labedz to get 25 instead of 30 votes. The third point I would make goes to a concrete example of what happened in this session of the Legislature. The Public Health and Welfare Committee voted to hold LB 924 and study it. I discussed that with Mr. Murphy, the representative of the chiropractors. He indicated, well, I guess that is all we can hope for and his indication to me was, well, that is it for this year, we will come back next year. So then he quickly goes to work and scurries up the 25 votes to pull the bill from committee. Now if the committee had known he was going to take that kind of action, we probably would have killed the bill but the point is that what can happen in these circumstances is I can be assured...the committee chairman could be assured by members of the Legislature that there is not going to be a move to raise the bill and not be in any rush to report it and then it is 25 instead of 30 votes. We don't need that kind of manipulation. It is clear, it is really clear that when a committee kills a bill, the bill is dead...

SENATOR CLARK: You have one minute left.

SENATOR CULLAN: ...and it is totally irrelevant when that bill is actually reported to the floor of the Legislature. That invites manipulation we don't need in the system. Senator Labedz is clearly wrong in this case. I will support her on her bill to reinstate studded snow tires but I can't support her when she is clearly wrong on the rules.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Mr. President, I would like to remind Senator Cullan of the night that we were at the Nebraska Club, Senator Labedz and I were having dinner, and Senator Cullan came over and said you know that little son of a gun Don Wesely went and filed a motion today to have his bill brought out on the floor because we failed to report it to the Clerk after 20 days. Now I am not going to suggest, and Senator Cullan I want you to understand, I am not even hinting at this, that Senator Cullan purposely held that bill up so that Senator Wesely would be able to have it brought out with 25 votes, that is not what I am saying. I am saying that chairmen can at times manipulate things for friends on committees or off of committees or whatever. So the argument, you know, that chairmen cannot manipulate things is not true. In Senator Wesely's case, he didn't get 25 votes so we never had this precedent come up before today. Senator Beutler, I would like to ask you a question.

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SENATOR CLARK: Senator Beutler, will you yield?

SENATOR HIGGINS: Senator Beutler, in your speech a few minutes ago you said that Senator Labedz came here with dirty hands, or excuse me, Senator Wesely, I am sorry, Senator Beutler. Senator Wesely, I would like to ask you the question. Senator Wesely, when you spoke a few minutes ago, you said that Senator Labedz came here with dirty hands which I consider somewhat of a slur.

SENATOR WESELY: I never said that, Senator Higgins.

SENATOR HIGGINS: Hold on! Wait until I finish.

SENATOR WESELY: Don't misquote me, okay. Don't misquote.

SENATOR HIGGINS: You didn't say it.

SENATOR WESELY: I did not say that.

SENATOR HIGGINS: Senator Beutler didn't say it. Nobody said it.

SENATOR WESELY: But you are saying it, is that correct?

SENATOR HIGGINS: No, I am not saying it. I am saying that one of you said it and now...

SENATOR CLARK: We must have one at a time talking, please.

SENATOR HIGGINS: I guess we could replay the tape. But the point I am going to make is this, whichever of the young turks made the slam, Senator Labedz stood right here on the floor in front of all 49 Senators and said I knew that bill had been killed the night before. She was honest and she was truthful and I don't care who denies saying it because, by golly, I can get a transcript of this tomorrow. But I resent the slam that Senator Labedz came here in a deceitful way. She passed out her own explanation of this and she stood here and said I have to be honest and tell you I knew that my bill had been killed the night before. So I just want to make that point, that Senator Labedz has not tried to deceive anyone and she has been aboveboard and honest in everything. Thank you, Senators.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, think for a moment of the precedent you will be setting here if you adopt, if you overrule the Speaker and adopt

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this interpretation. It will mean that from here on out whenever a committee takes action on a bill you are going to be looking to see whether it was final action, and if they vote to kill the bill, you will immediately run down and file your motion before the committee can report, because if you do that, you get 25 votes instead of 30. So you are going to set up a process that has no rationale whatsoever and it simply is going to set up a mechanism by which you can circumvent the committee action. I really hope you are thinking about that because it is just a terrible precedent. Secondly, the argument has been from a technical point of view that the committee didn't take final action. Could you listen just for a moment to this sentence in the rule which I think relates. "If at the expiration of eight calendar days from the date final action was taken, the chairman has not reported the bill, et cetera, et cetera, a Senator may file a motion." So the report has to be...

SENATOR CLARK: Please give him a chance.

SENATOR BEUTLER: ...eight calendar days from the date of final action. Right there, they are telling you what final action means. It means the date you indefinitely postponed it or the date you voted to advance it to the floor. Now, sure, the committee can still take action while it is in committee, but if no action is taken, the report to the floor is required. It is mandatory. There is no further action. The action the committee took was final and this sentence in the rule clearly shows you that that is what was intended. There can be no other interpretation of final action in that particular sentence. So the interpretation that is being asked for in overruling the Chair I think is clearly erroneous. Thank you.

SENATOR CLARK: Bernice, would you like to close please?  
Senator Labedz.

SENATOR LABEDZ: Thank you very much, Mr. President. Senator Wesely, as Chairman of the Rules Committee, I suggest...

SENATOR CLARK: One moment, please. Senator Cullan, did you want to speak again on it?

SENATOR CULLAN: Yes, Mr. President, I wanted to speak.

SENATOR CLARK: I am sorry. I didn't have him down.

SENATOR CULLAN: Mr. President, Senator Labedz indicated the situation on Senator Wesely's bill and I simply want to clarify that to the membership. Senator Wesely's bill was



killed by the committee when Senator Wesely was not in executive session. He came and asked us to reconsider our action and asked me not to report the bill for eight days. At his request and his opportunity to have the committee reconsider the action, I held the bill up, did not report it immediately. Senator Wesely asked the committee to reconsider their action. They did and they reported his bill to the floor of the Legislature. I don't see anything wrong with that, Senator Higgins, and I simply went to each member of the committee to ask them if it was all right, to ask if Senator Wesely should have an opportunity to present his bill before the committee before we reported it. That is what happened. That is different than the situation that we are talking about here. Under the situation that we are talking about here, had I been a supporter of Senator Wesely's, I could have simply drug my feet and asked Senator Wesely to file a motion to raise the bill in the meantime and had 25 votes instead of 30. That is the issue and that is the manipulation I am talking about and I don't think a committee chairman ought to be able to do that. That is why I am voting against Senator Labedz. Thank you, and I appreciate the opportunity, Mr. Speaker, to clarify what happened with respect to Senator Wesely's bill.

SENATOR CLARK: All right, Senator Labedz will now close.

SENATOR LABEDZ: Thank you. As I started to say, I believe that Senator Wesely as Chairman of the Rules Committee, one of the first duties that I think he should be taking up with his committee is to define final action. The bill, as far as I am concerned and maybe I am wrong, is the property of the committee, and I have heard that said on the floor so many times, until it is recorded, the committee's action is recorded with the Legislature which would be the Clerk, and then it becomes the property of the Legislature and the committee can at no time take any further action. As long as that bill is in committee, they can take further action. Even though it has been indefinitely postponed, they can reconsider and advance the bill or hold it in committee. So there is no final action as long as that bill is the property of the committee. When it becomes the property of the Legislature, that is when the committee has got their final action and no other time. The Chairman of the committee signs the form, says final action has been taken, and then that information is given to the Clerk. Up until that time, there is no final action taken. I ask for an overruling of the Chair.

SENATOR CLARK: All right, the Chair is going to explain the ruling. I agree with Senator Beutler and Senator Wesely

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that the bill was acted on on the 20th day, even though it was reported to the floor the next day. I would also like to clarify my position on the fact that I did not vote to kill the bill in committee because I was in that particular committee. But the question before the House is, shall the Chair be overruled? It will take 25 votes, a very historical vote because I have never been overruled. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

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

CLERK: Mr. President, Senator Koch requests record vote. (Record vote read. See page 1119, Legislative Journal.) 17 ayes, 25 nays, Mr. President, on the motion to overrule the Chair.

SENATOR CLARK: The Chair is not overruled. We will continue with the bill. It takes 30 votes to get it on the floor.

SENATOR LABEDZ: All right, thank you to those that supported my version of the rules, and as I said before, I suggest Senator Wesely get to work on that rule and come out with a specific definition of final action. I will try for the 30 votes and I believe I have talked to most of the Senators. I don't want to take too much time because I understand, Mr. President, I only have ten minutes.

SENATOR CLARK: Yes, pardon me. I have got so much confusion up here I can't tell...

SENATOR LABEDZ: I have five minutes just and no closing.

SENATOR CLARK: You have got ten minutes.

SENATOR LABEDZ: And how about the opponents?

SENATOR CLARK: They have five minutes.

SENATOR LABEDZ: They have five minutes. So I have five...

SENATOR CLARK: You have five minutes on closing.

SENATOR LABEDZ: Okay, thank you. I don't think I will need that much time because I do know that there are eight Senators that cosponsored this bill with me and perhaps they might want to say something. But as I talked to many of the people throughout the state, and especially in the City of Omaha, and many of you know what the streets are like in the City of

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Omaha, the hills are very, very bad. This winter was one of the worst we have had in several years and I received over a hundred and seventy letters shortly after I introduced the bill from people that said they couldn't hardly get out of their driveways up the street had they had not been using the studded snow tires. I passed out to you, and I apologize because I was working so very hard on the last motion I forgot to put my initials on a three page correspondence I just put out and I think the Page is putting the initials on it now, but in case you are wondering, it did come from me. Now there are many critics that say the use of studded snow tires causes overconfidence in the driver. That is ridiculous. Would they also favor taking away the seat belts, the windshield wipers, the safety glass, and other items that increase the motorist's chances of avoiding an accident? Critics of studded tires also argue that icy roads occur only one or two percent of the time. Well, this weather this winter certainly did disclaim that. The same report contains much more important information. One-third of all the vehicles involved in accidents were on icy roads at that time, one-third of the accidents. Now the people that have appeared at the public hearing, let me tell you, was the Department of Roads, the City of Lincoln, the City of Omaha, and Senator Wesely, I am just saying that I am being very truthful and letting them know who appeared. There was not one citizen that appeared at the hearing that was objecting to the studded snow tires. Everyone that appeared, and I think there was twelve or maybe more that appeared in favor of the bill, gave very good testimony of what the studded snow tires has done for them. They know that especially in Omaha, and I did have some people from outstate that also wrote to me, in fact I only got two letters from my District, the majority of the mail I got was from out in the rural area where they say that the roads and the streets are not cleaned as quick and as often as they are in the city. Well, let me tell you, the City of Omaha is very, very bad in removing the snow and also taking care of the ice, especially in the residential area. In order to get to work and in order for the women to drive their children to school, they have to get out of the residential area. So I am saying to you that it definitely, definitely is something that the people of the State of Nebraska want. They talk about the damage that is done on the streets by studded snow tires. At the hearing one gentleman brought in a sack of gravel and sand that he picked up off the street, and believe me I have it in my office if any of you want to see it, he laid it on the desk, and he said if I would lightly run my hand across this desk over this gravel, it will ruin this desk, and how can we say that studded snow tires ruins the streets when we are using sand, gravel, heavy trucks, chains, and an increase

in the motorists that are driving cars now on our streets, and believe me, we do have inferior material being used on our highways. In the City of Omaha, many of you come to Omaha and notice that since two years ago when Senator Newell introduced the bill to eliminate or to ban studded snow tires, Omaha grooved the majority of the interstate highway. You find that now when we have sleet and rain, those grooves fill up with the water and then freeze and then you really have very icy roads. There is no chance of that water running off. It stays in the grooves. And yet we say that studded snow tires has ruined these streets in Omaha. I can't believe that our Public Works Director can come down to Lincoln to the Legislature, to the committee, and say that the streets in Omaha have been ruined by studded snow tires. Most of the people that have written, and I will admit that again, Senator Wesely, because I don't want to come here with dirty hands, most of the people that have written to me are senior citizens. There is only ten percent according to the Department of Motor Vehicles, because two years ago it was fourteen percent, that are using studded snow tires. The senior citizens use those cars probably to go to a bingo game, the doctor, pick up their groceries and maybe go to church. So the majority of that ten percent, I am assuring you, are the senior citizens. I can't see where using those cars during the wintertime two or three times a week, I will admit that I use studded snow tires and drive 120 miles a day, but there are many, many that don't use their cars that often. I don't think that this Legislature would want to force the people that are using studded snow tires to take them off their car and say, you no longer can use them, but everybody coming over from Iowa, thousands of cars daily, coming across the bridge, using studded snow tires, it is all right for them to use them but the citizens of Omaha, the citizens of the State of Nebraska, if we do not pass this bill, will not be allowed to use them. And I know there is a lot of the Senators here that live on the borderline of states that have not banned and refuse to ban the, and Iowa, of course, is one of them that I know of for sure, refuse to ban the use of studded snow tires to make them illegal. Why should we in Nebraska give them the privilege of driving on our streets and yet we say, we who pay the taxes are not allowed to. I urge the members of this Legislature, I do need 30 votes, to bring this to the floor of the Legislature and to further discuss it because there is many Senators that will not have the opportunity because of the ten minute time limit to give their views of the people in the rural area. So give them a chance to tell you the problems they have got and we will do it on General File. I will tell you one thing, that when it comes to General File,

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I, myself, will introduce an amendment to shorten the time. Right now I think it is about five months, four and a half to five months. I will shorten that time considerably because I think myself it is too long. Thank you very much.

SENATOR CLARK: I would like to introduce ten eleventh and twelfth grade students from Exeter. They are in the North balcony. The teacher is Mr. Shafer and their Senators are Apking and Sieck. Would you stand and be recognized please? Welcome to your Unicameral.

SENATOR LABEDZ: Mr. President, how much time left do I have?

SENATOR CLARK: Well, there was a ten minute limit on the whole thing.

SENATOR LABEDZ: And I talked eight minutes?

SENATOR CLARK: Yes. It isn't a matter of that. It is a matter that we have got ten other people who want to talk and I am going to have to ask the Speaker what he wants to do about it.

SENATOR LABEDZ: Okay, no, that is fine. I will abide by the rules.

SENATOR CLARK: Mr. Speaker, you have a ten minute limit on this particular bill. I have got two, four, seven speakers more.

SENATOR LABEDZ: I wanted one of the sponsors to use up my two minutes.

SENATOR CLARK: Well, we will get the Speaker's word first.

SPEAKER MARVEL: You have an agenda. You have already used the agenda. One of the places you used it was in Final Reading where you had a one hour limit so I suggest that you take this same agenda, find the source of the argument and then make your rule.

SENATOR CLARK: What we are going to do is give the opposition five minutes on this particular bill. We are going to go five minutes for the opposition and then take a vote up or down. No, you really don't have any time to yield anyway. You are allowed up to ten minutes but you don't have time to yield. Who is in the opposition. All right, Senator Newell, you have five minutes. Then we are going to take a vote up or down.

SENATOR NEWELL: Mr. President, Senator Beutler, I will try

to save two minutes for you. I am going to be very quick. You know one of the arguments here is there is not very many people that use them so, therefore, we ought to legalize the use of studded snow tires no matter what the cost. Now that is the issue, the cost. Let me say that if ten percent of the people in America decided the sky was going to fall tomorrow, that is not the criteria for us to change and say we can adjourn, forget it, because the sky is going to fall tomorrow, just because ten percent of the people believe that. The bottom line truth is that there has been no proof that studded snow tires provide any safety except on glare ice and then the negatives far outweigh the positives. The negatives far outweigh the positives. On the safety issue alone, it is not correct. But let's talk about cost. Why should ninety percent of the people of this state pay for the use of studded snow tires by ten percent of the people even though they don't do any good? The answer is they shouldn't. The cost are \$22 million in terms of damage and the damage is done if ten percent use it, or if fourteen percent use it, or if five percent use it because it tears the covering off the roads. In Omaha alone, in Omaha alone, the estimated costs are \$10 million a year, \$8 million a year. Now, frankly, what we have to look at in this issue, and I think it is very simple, we have to look at with declining federal dollars for highways, with declining dollars for street and bond issues, with declining tax bases, can we afford the luxury of studded snow tires, especially now that we have front wheel drive, we have better tires, et cetera? The answer is clearly no. Senator Beutler.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, let me try just to analyze for you for a minute what came before the Public Works Committee. Basically we had three questions. Do the studded tires tear up the highways? Is there a net safety effect, if you have studded tires? And if the answer to both of those questions is yes, then you have to figure out whether the safety benefits outweigh the economic costs, and that basically is the question. Now what are the costs? The fiscal note which I passed around to you from the Department of Roads indicates the cost may well be \$35 million, and I don't think that they are just trying to be scary with that figure. I think that is accurate in terms of the hundreds of thousands of dollars per square mile that it takes to resurface roads. They

indicated that on the kind of travel that could be expected, that the forty year life of an interstate highway could be reduced to as low as twenty years. It is important to note that there are no studies to my knowledge

that claim that the wear and tear on the highway does not exist. There was a witness who came on behalf of the bill, on behalf of Senator Labedz, and testified on the damage to the highways and even that witness, the witness on behalf of the bill, acknowledged that there was serious damage to the highways by studded tires. Sure, salt and gravel and heavy trucks damage the highways, too, but it is absolutely clear there is no contradictory evidence that studded tires don't also do great damage. If you are going to have studded tires, one of two things are going to happen. Either you are going to take money away from the highway funds to repair roads, in which case some gravel roads aren't going to be asphalted and some paved roads are not going to have the chuckholes filled, and I ask you to consider the safety effects of those omissions. How much safety is gained by changing a gravel road to a paved road? I think it is a lot of additional safety, more additional safety than allowing studded tires on the road I believe.

SENATOR CLARK: You have one minute left.

SENATOR BEUTLER: And if you don't siphon away funds from existing road projects and from the improvement of roads, then the other effect has to be that you increase the gas taxes significantly for everyone, and if you do that, then you are getting to the situation that Senator Newell described where you are charging everybody, everybody in the state for those who are doing damage, for that small percentage that is doing damage with the studded tires. I guess that is as far as I can go on my time. Thank you, Mr. Speaker.

SENATOR CLARK: I would like to give Senator Koch a little personal privilege here.

SENATOR KOCH: Thank you, Mr. Chairman. Over here under the North balcony, I am proud to introduce to you my youngest son, Scott, who is the Assistant Principal at Millard North High School, and the reason he is here today is he is also going to officiate at the state tournament. So, Scott, why don't you stand up and be recognized.

SENATOR CLARK: Welcome to the Unicameral. I also have an announcement to make. There will be a chili feed this noon at 1320 J put on by the freshman Senators, I think, but I heard they call them sophomores. It will be at noon for all Senators. The question before the House is shall the bill be put on General File notwithstanding the vote of the committee which will take 30 votes. All those in favor vote aye, opposed vote nay.

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CLERK: Senator Clark voting yes.

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

SENATOR LABEDZ: Mr. President, I will take call ins and I will have a Call of the House.

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

CLERK: 23 ayes, 0 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All Senators will return to their desks and check in please. Mr. Sergeant at Arms, will you get them all back to their desks? She says she will take call ins.

CLERK: Senator Nichol voting yes.

SENATOR CLARK: We have not all checked in. Senator Schmit, will you check in please? Senator Kilgarin. We are just short one.

CLERK: Senator Kahle voting yes.

SENATOR CLARK: Record the vote.

CLERK: 30 ayes, 10 nays, Mr. President, on the motion to raise the bill.

SENATOR CLARK: The bill is on General File notwithstanding the action of the committee. This is not a record vote. We will now go to item #6, LB 870. The Clerk would like to read in.

CLERK: Mr. President, Senator Chambers would like to print amendments to LB 547 in the Legislative Journal.

Mr. President, Senator Goll would like to be excused Monday, March 15.

SENATOR CLARK: No objections, so ordered.

CLERK: Senator Koch would like to print amendments to LB 824.

SENATOR CLARK: We are ready for 870.

CLERK: Mr. President, LB 870 was a bill introduced by Senator



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LB 591, 520, 824

this is not the kind of bill ordinarily that I would support but because of a possible amendment on Select File on a subject in which I am deeply interested I'm going to vote to advance this bill and I want to make it clear as to why I'm making that vote because you have one more vote than perhaps it would have ordinarily.

SENATOR LAMB: You have thirty seconds, Senator Landis.

SENATOR LANDIS: Thank you very much. First I would ask if the Call is still in force, Mr. Speaker?

SENATOR LAMB: Yes, and everyone is here that is not excused.

SENATOR LANDIS: Thank you. I want to point out what we have now in 591 is a bill which authorizes primary and first class cities to ask their citizens for an additional one-half cent sales tax. Ultimately this constitutes financial self-determination for those kind of cities.

SENATOR LAMB: Time is up.

SENATOR LANDIS: Thank you. Before we proceed with this vote I would ask that Senator Wesely be in his chair, I understand that he is not excused.

SENATOR LAMB: Will all senators please take your seats. We are under Call. The Clerk will call the roll.

SENATOR LANDIS: . . .not excused, I believe that he is on his way. I'd ask that since we are under Call we wait until he gets here.

SENATOR LAMB: He is excused until he gets here. Please call the roll.

CLERK: (Roll call vote.) 25 ayes, 18 nays, 6 excused and not voting. (Vote appears on page 1232 of the Legislative Journal.)

SENATOR LAMB: The bill is advanced. Before we continue we have 60 seventh grade students from St. Paul, Nebraska from Senator Wagner's district, teacher Tom Willnerd in the north balcony. Please rise and be recognized. Welcome to your legislature. LB 520, Mr. Clerk.

CLERK: Mr. President, if I may right before that Senator Lasedz would like to print amendments to LB 824 in the Legislative Journal.