

March 3, 1982

LR 237  
LB 522, 208, 626, 765

SENATOR V. JOHNSON: Let's wait for them to show up and then we will do a roll call vote, Senator Clark.

SENATOR CLARK: All right, Mr. Sergeant at Arms, can you get everyone back in their chairs now so we can go ahead with the roll call. Senator Haberman, would you get back please. You have permission to rope and tie that one. The Clerk will call the roll. I think the others will be here by the time they get in.

CLERK: (Roll call vote taken. See page 957, Legislative Journal.) 21 ayes, 24 nays, Mr. President, on adoption of the amendment.

SENATOR CLARK: The motion failed. The Call is raised. And Senator Marvel, would you like to excuse us until tomorrow morning at nine o'clock? Oh, we have to read some things in first.

CLERK: Mr. President, very quickly, Senator Wiitala would like to print amendments to LB 765; Senator Schmit to 626; and Senator Koch to 208.

Mr. President, there will be an executive session of the Business and Labor Committee tomorrow morning at ten thirty in the William H. Hasebroock Memorial Hearing Room. That is Business and Labor at ten thirty.

Mr. President, a new resolution, LR 237 by Senator DeCamp. (Read.) (See pages 962 and 963, Legislative Journal.) That will be laid over, Mr. President.

SENATOR CLARK: Senator Marvel.

SENATOR MARVEL: I move that we adjourn until Thursday, March 4, 1982 at nine o'clock.

SENATOR CLARK: You heard the motion. All those in favor. We are adjourned. Administrative Rules will meet under the North balcony here right now.

Edited by Arleen McCrory.  
Arleen McCrory

CLERK: Mr. President, LR 237 was offered by Senator DeCamp. It is found on page 962 of the Journal. (Read.) Mr. President, again the resolution is on page 962. I do have a series of amendments to the resolution.

SENATOR CLARK: Senator DeCamp, we will take the resolution first and then we will take the amendments.

SENATOR DeCAMP: Mr. President, members of the Legislature, every few years in the State of Nebraska some issue rises to the top that requires a very special process for this Legislature to use to look into it and we have special rules that have been developed over the years and formalized for that investigative process. The first couple of years I can remember the fairly well known bribery case at that time required this process and the process worked eminently well and ultimately an individual was convicted in that case, laws were changed, so on and so forth. Later on we had the study of the Patrol, investigation there, or of law enforcement. Although it was a hotly contested one, out of it came support from the Patrol and all of law enforcement for major changes and disclosures that things we thought couldn't exist in Nebraska did exist and we did get a number of things straightened out that was important. So the process does exist for those special needs. I think the evidence is pretty heavy now that this is one of those cases that requires it. What is our basis for being involved? Legislative oversight. The laws on antitrust, the laws on bidding, the budgets we pass, all these are involved. Why specifically though should a legislative investigative committee be allowed to do this? Naturally the objections of some might be we have got the Attorney General, we have got law enforcement, we have got this, we have got that, we have got the Governor. We have a separation of powers and we have got three separate reasons in the State of Nebraska distinct from every other state that gives us a special and heavy responsibility to do precisely this process and that the process come out of the legislative body. Number one, right or wrong the Constitution of the State of Nebraska has a system that makes the Governor of this state very weak in power compared to most other states. Now this is not just a statement by Johnny DeCamp. This is a factually recognized thing that you can get by checking any of the studies, comparison of Constitutions. For whatever reasons, it was set up that way and great and tremendous power was directly put into the legislative body, Unicameral ultimately, to do many of the things that in other states are handled by the Governor. So we have a very direct responsibility, a heavy responsibility as a result of the way our Constitution functions. Second, the nonpartisanship nature of this body gives us a special responsibility. In other

states you have the Democrats and the Republicans and they are pretty well organized so that they create an almost investigative force of the other individual or an issue so that they are self-checking. We are a nonpartisan Legislature. Yes, we are influenced by party, we know, but I think we can truly say that this is a nonpartisan Legislature most of the time and so we have a special responsibility as a nonpartisan body to accomplish some of those things that might be accomplished in terms of accountability of a partisan structure, this being one of them. Finally, the Unicameral itself sets up another special situation. In every other state in the United States you have a House of Representatives and that House generally strictly represents their district and they become the speakers or spokesmen for their district and their district interest. The Senate frequently in the other states looks at the whole picture of the state. In Nebraska we only have the one body. We Senators here have to be spokesmen for the state, representatives of the entire state picture as well as district representatives. That is our function by virtue of the fact we only have one house. Now let me just say that the resolution simply sets up the mechanism that we as a Legislature have recognized for looking into the issue. It is not a small issue. It is not small in dollars or probably small in consequences and so I would ask your support for the resolution. I know Senator Lamb has a proposal that we use an existing committee, the Public Works Committee. I have no objections to that. Senator Lamb, as Chairman of the Executive Board, has made it very clear since he has been Chairman that he wishes to support only the existing structure rather than creating new committees. That is up to the Legislature. I personally told him, fine, if that is what you want to do I will support that and then the Public Works Committee can let whoever wants to sit in on the hearings or the study. I have reason to believe that even before this week is out we will have additional incentive as more disclosures are made as to the length and breadth and depth of this very serious problem involving a number of people and involving more than tens of millions, possibly into the hundreds of millions of dollars that I believe it is imperative that we go ahead and get started and get something going.

SENATOR CLARK: First amendment.

CLERK: Mr. President, the first amendment I have was from Senator Warner. Senator Warner would move to amend LR 237 by striking RESOLVE #4 and insert the following: The committee shall be seven members of the Legislature selected by the Executive Board whose Chairman shall be selected by the Executive Board.

March 8, 1982

LR 237

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, I offered or wrote out the amendment the other day for a couple, three reasons. One, I noticed that in naming of committees if I was to select committees, there is at least four or five I can think of that would be more appropriate than some of those that are included, such as, Revenue or the Administrative Rules procedure which would deal with rules for bid letting, and Highway Transportation Advisory Committee, Appropriations, Performance Review and Audit does oversight, so there is a variety of committees that would be appropriate. But more importantly with one exception, I cannot recall any of these kinds of committees that were established in the past but what they were selected by the Exec Board with one exception when the whole body elected the membership for a special committee. But it seems to me that would be the appropriate way to do rather than try to name in or lock into a resolution the makeup of a particular committee. I do not see anything wrong with...I think it is appropriate that the Legislature looks into these things. How much more we could uncover than the FBI or the grand jury or the Nebraska Department of Justice and I would think one would always be concerned that after the subpoena powers we didn't inadvertently mess up the opportunity for Nebraskans to recover on some of these but those would be safeguards we would have to keep in mind. I think there is probably something like eighteen states from what I have read that the possibility exists or more and I have heard comments that it could go back to almost WW II days as a possibility in some states, not necessarily here. But I would move adoption of the amendment to the resolution for the Exec Board to make an appropriate selection. Then I think the resolution ought to be submitted to...referred to the Exec Board in any event. They may have other mechanical things that they would feel would be necessary to change.

SENATOR CLARK: We are on the amendment, Warner amendment. Senator Lamb.

SENATOR LAMB: Mr. President, members of the Legislature, when I first saw Senator DeCamp's resolution, I had two objections to it. One was the makeup of the committee. It seemed to me that the Public Works Committee would be the proper group to handle the bill since any legislation that affects this sort of thing does come through that committee anyway and, therefore, you would be plowing the same ground twice in this situation. The other objection I had was that in number two of the resolution it states that the committee would really have unlimited funding or really sort of would have



a blank check. I think that responsibility has to remain with the Executive Board. I do not quarrel too much with Senator Warner's amendment but my amendment will come up later and I prefer it. He makes no mention in there about the funding and I think that is an important part of it. Senator Beutler also has an amendment which would merely add I believe two or three more people to the committee. It is my suggestion right now that the proposal I have circulated on your desk is the best one and I would like to see that one passed rather than the other two amendments and then we can pass the resolution to accomplish the purposes that Senator DeCamp has outlined.

SENATOR CLARK: Senator Hoagland, on the amendment. Senator Wesely, on the amendment.

SENATOR WESELY: Yes, Mr. President, members of the Legislature, I rise to oppose the Warner amendment for a number of different reasons. First off, Senator Lamb is correct, I think, that his amendment would be a better approach to take at this time. The Public Works Committee has held a hearing on this study. The question of roads is under the review of the Public Works Committee so they would be the proper committee to consider this matter. So I think it would be better to strike the present language in the resolution and follow the Lamb approach, and I think what Senator Warner is proposing is to have the Exec Board appoint this special committee and I think that is less preferable to having the Public Works Committee which is already there ready to handle it, take the steps necessary. If we are going to have a committee appointed, a special committee appointed, if you look under Rule 3, Section 4 (g), you will find that investigating committees are appointed by the Committee on Committees and that that is where the power at this time in the rules anyway is provided for to make those appointments. It is a little unclear but I would suggest that if we are going to have anybody make appointments to a special committee it would be better to have the Committee on Committees even than the Exec Board. So for that reason then for the fact that I think the Public Works Committee would be better equipped to handle the issue, I would suggest that you reject the Warner amendment and support the Lamb amendment.

SENATOR CLARK: Senator Beutler, on the amendment.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I would like to oppose the amendment and one of the principal reasons that I would like to oppose it is that I think that the committee who is going to be hearing ultimately the proposal submitted by this committee should have either total or at least to a large extent involvement in the whole investigative process, and in this case we are talking about the Public

Works Committee. So I don't have any objection to Senator Lamb's proposal if Senator DeCamp is willing to go along with that and I hope that the body would at least stick in part to our committee structure. This whole thing has to fit together, the investigation has to fit together with the legislation going through next year, the results from the investigation, and it is very important, of course, that the people who are on the Public Works Committee be informed and have some expertise on what has developed rather than handling the whole subject matter new next year. So I think that the members of the Public Works Committee should be involved and that it shouldn't be just seven people selected from who knows where in the Legislature. With that in mind, Mr. Speaker, when the appropriate time comes, I will withdraw my amendments which basically would have added a couple more members of the Public Works Committee to the structure in favor of Senator Lamb's amendment which would, as I understand it, hand the investigation back over to the already established committee, the Public Works Committee. But I very strongly oppose Senator Warner's amendment.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Mr. President, I have a question in order to clarify how I want to vote on the amendment. This resolution to have a committee formed to investigate bid rigging only in road construction or is it going to involve plumbing contractors, electrical contractors, carpentry work, the whole shebang, I mean? Is there anybody that can answer me that question?

SENATOR CLARK: To whom are you directing your question?

SENATOR HIGGINS: Well, I guess it would be Senator DeCamp since it is his resolution.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Senator Higgins, I watched a movie last night called "Fiddler On The Roof" and the essence of the movie was that once you break tradition and pull the first string out, you don't know where it is going to lead. We start out looking and ideally focusing our attention on the highlighted problem which is road construction, bid rigging there. Obviously if this committee or whoever was studying this came upon additional information, they are going to disclose that to the Attorney General, to the legislature, whatever. I think the answer to your question is, the reason we are looking is we don't know what is at the other end of the tunnel but we know from the evidence we have right now it is time to start finding out.

March 8, 1982

LR 237

SENATOR HIGGINS: So you would exclude every kind of a contractor except road contractor?

SENATOR DeCAMP: No, what the resolution would do would focus on the immediate problem, and if it discloses additional things, you know.

SENATOR HIGGINS: Thank you, Senator.

SENATOR CLARK: Senator Sieck.

SENATOR SIECK: Mr. President, members of the Legislature, I am going to support Warner's amendment. I do feel that more of the legislators have to be involved in this than just the Public Works Committee and I feel also that we should be very careful how we recognize this problem because the Governor's Office now is investigating and I think we should include the Governor's Office in anything that we do in this area and that is the reason I feel that Warner's amendment will touch it a lot better than the Lamb amendment will. He just designates the Public Works Committee so I would highly endorse the Warner amendment.

SENATOR CLARK: Senator Kremer.

SENATOR KREMER: Thank you, Mr. Chairman. Members of the Legislature, I rise to speak not as the Chairman of the Public Works Committee because I will not be around next year. However, I feel it is imperative that we stay with our committee structure. I think it is best and it has well been spoken to by others that have spoken before my speaking. I think it is of real value that the committee that will ultimately deal with whatever has to be done, if anything, that they are in this whole thing from the beginning. I think it will get a lot of information to the committee that will be handling the legislation, if any. Without being involved, I think they would be at a disadvantage. Having said that I would like to ask Senator Lamb a question if he will yield, please.

SENATOR LAMB: Yes, sir.

SENATOR KREMER: Senator Lamb, would you explain for me what you mean in Section 2, and I ask this because we may be over there after while, Section 2, that the Legislature, the Executive Board that shall provide all assistance, well that is one thing, and then you go on to say, "as the Executive Board deems necessary and proper", what do you mean by that?

SENATOR LAMB: Okay, if you will read in Senator DeCamp's resolution under number two, it says, "The Legislature's Executive Board be instructed to provide to said investigative committee all assistance as deemed necessary and proper by a

March 8, 1982

LR 237

majority vote of said investigative committee." In other words, the investigative committee has a blank check under that proposal, and it seems to me since the Executive Board is responsible for the budget of the Legislative Council that this amount of money that is going to be spent has to be cleared by the Executive Board. That is the reason for the change in wording and that is part of the amendment which is not covered by Senator Warner's amendment.

SENATOR KREMER: So you are talking about the responsibility of the Executive Board as related to the financing of the study, is that what you are talking about?

SENATOR LAMB: That is correct.

SENATOR KREMER: It does not mean they can enter any time...any time they want they can say we want to be there, too. I just wondered to what extent you felt that the Executive Board may see necessary to enter into the whole investigation?

SENATOR LAMB: If I understand your question, Senator Kremer, all I am saying here is that the funding, this investigative committee should properly come to the Executive Board with their request for the funding at whatever time they think is proper because they think the Executive Board then has to make the final decision on that funding because we have to stay within the framework of our overall budget.

SENATOR KREMER: Final decision on the funding.

SENATOR LAMB: Yes.

SENATOR KREMER: Okay, you cleared up my question, thank you.

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

SENATOR WARNER: Mr. President, members of the Legislature, the reason is simple and I can appreciate those who would argue that one of the Standing Committees should do it. I would only suggest that the reason for making the suggestion was that there may well be a cross section of other committees that are appropriately involved or traditionally involved in roads and the Exec Board could have taken that into account in the composition of the committee.

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

CLERK: 6 ayes, 19 nays, Mr. President, on adoption of Senator Warner's motion.

SENATOR CLARK: Motion lost. Senator Lamb, on the issue.

SENATOR LAMB: I believe the amendment has been pretty well discussed.

SENATOR CLARK: Wait, he has to read it first. All right. Senator Beutler, did you want to withdraw your amendment? All right. We will read Senator Lamb's amendment.

CLERK: Mr. President, Senator Lamb would move to amend the resolution by striking the original RESOLVE, paragraphs 1, 2, and 4 and insert the following: That the Legislative Public Works Committee be charged with conducting an indepth investigation and study of the entire area and spectrum of bid rigging and to include a determination whether there was participation by any state employees or publicly elected officials at any level of government and to determine whether there was a de facto participation or allowance of the Nebraska bid rigging by a lack of adequate supervision. 2. That the Legislature's Executive Board shall provide all assistance as the Executive Board deems necessary and proper, and in RESOLVE 3, in the first line strike "this investigative committee" and insert "Public Works Committee".

SENATOR CLARK: Senator Lamb.

SENATOR LAMB: Mr. President, members of the Legislature, I believe the amendment has been quite thoroughly discussed. I would only hasten to add that there will be other people, if other legislators are interested in serving with the committee, it is not our intention to preclude them but the basic responsibility does remain with the Public Works Committee. However, there have been some other legislators that have indicated interest in the committee and every effort will be made to make the meetings available to them and they certainly will be welcome. I ask that the amendment be adopted.

SENATOR CLARK: Senator Chambers on the amendment.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I can understand the rationale for saying that the Public Works Committee should be the one to undertake this study because the subject matter falls within the province of that committee. However, this is different from a legislative bill. We are dealing with a situation that impacts on everybody and every community perhaps throughout the state.

I can't honestly say that the makeup of the Public Works Committee provides an adequate safeguard or assurance that all those interests throughout the state would be properly and vigorously represented during the process of this investigation. I, for one, am interested in being on that committee and not being a person who just come and sits and listens to other people talk but have the opportunity to ask questions, to review data, to request information because I have been given some information to date that I haven't heard discussed by any of the investigators, and by that I mean the county attorney, the Attorney General, the U. S. Attorney, whoever else may be involved and I don't know that any county attorneys are involved in the investigation as of this date. But to restrict such a wide-ranging issue, broad-reaching issue to one committee I think would not be appropriate. If you have an extraordinary set of circumstances, then there is a justification for an extraordinary measure. Now it is not really extraordinary to establish a committee to undertake a specific investigation of a specific issue. That has been done with reference to the State Patrol enforcement of drug laws, and as a result of the activities of that committee, there have been many worthwhile changes in various aspects of the criminal law. So I have to oppose Senator Lamb's amendment. I don't think that it is given to squelch an investigation or to keep certain people off but by virtue of its structure that will be the result and I am not in favor of that. I would hate to feel that an investigation that involves such high-powered individuals as the Peter Kiewit Company could reach into this Legislature and create an appearance in the minds of the public that certain people are not to be involved in this investigation because they dig too deep, they persevere, they ask difficult questions, they will not be bought off or frightened off. Now the Public Works Committee has had difficulty dealing with the issue of water so I can't say that the public which is not privy to everything that happens in this Legislature, which does not understand why a committee may deadlock on an issue, I cannot say with their lack of privity that they would accept the idea that the Public Works Committee which cannot deal effectively with the water issue can deal effectively with a large scale bid-rigging problem. So, Senator Lamb, my opposition to your amendment is not that I see anything sinister in it at all, and I can appreciate your attempt to keep everything flowing through the existing structure, and as head of the Executive Board that may be your responsibility as you see it, but as a member of the Legislature, I am not bound by the constraints that are on Senator Lamb. I do want to be a part of that committee and maybe I should not have stated that because by making that clear it may cause other people to vote in such a way as to ensure that

I won't be a member of the committee. But whether I am on it or not, I would hope that it is put together in such a way that nobody can say that there are certain political interests at work in this serious area and the attempt is to try to squelch a meaningful investigation rather than to ferret out all of the facts, all of the truth, and determine who may or who may not be involved. One final thing and then I am through, Mr. Coolidge who is the Director of the Department of Roads and the State Engineer...

SENATOR CLARK: You have one minute left.

SENATOR CHAMBERS: ...seemed to express public shock that bid rigging was going on in the State of Nebraska. Now I was so shocked that he was shocked at that that I almost went into cardiac arrest, and when I read it, I had to clutch my hands on my chest and say, "Be still my beating heart". Then some people told me that because of Mr. Coolidge's position he couldn't say that he knew what everybody else knew, but be that as it may, it is time that we restore some confidence that the public should have in the legislative process, and for that reason, I am repeating for the last time I am opposed to one committee doing it. It would be better if we could have a broad representation from throughout the state on that particular committee.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. President, members of the Legislature, perhaps this should be referred to the Law Enforcement and Criminal Justice Committee. This doesn't have anything to do really with building of roads. It has to do with fraud. Just think about that for a minute. Thank you.

SENATOR CLARK: Senator Hoagland, did you want to talk on the amendment? Senator DeCamp, did you want to talk on the amendment?

SENATOR DeCAMP: Mr. President, members of the Legislature, I am supporting Senator Lamb's amendment. Senator Lamb came to me and expressed two concerns, one was that there should be some control by the Executive Board and some monitoring and some supervision of something so sensitive as this so as to make sure, as I understand it, it didn't get out of hand or whatever. His amendment retains that control by having control over the purse, the finances involved, and that is an effective control and that should answer the concerns of Senator Warner. The other concern he had which I have heard from a number of Senators including my good friend Senator Chambers was to the effect that the membership I had selected in my resolution might not include all of the



people that wanted to be on or might not be the right committee, in other words, membership, who would do it? The reason I selected the people I did in the resolution was I thought those committees chairmen represented cross sections of law which would be involved, Urban Affairs, Banking because of insurance involved, so on and so forth. However, in order to accommodate everybody and make a major concession, I thought if you want to use the Standing Committee structure then use the committee that is generally involved in this area, the Public Works Committee. So that is why I have agreed to that, and with those two major concessions, I believe it will be an effective committee to accomplish the goals outlined here. Now to Senator Chambers, he has worked with me before on committees of this type and I think he would assert and acknowledge that when it comes to doing the work that needs to be done we are not timid, that the pressure can be put on and the facts ferreted out. To Senator Warner, one thing he brought up about the FBI investigating and others investigating, remember there is another fact, two separate areas that they aren't going to deal with and their real concern isn't those areas, that is recovery of lost money. Sure, you might get a fine here, whatever, but we are talking possibly hundreds of millions of dollars, and if there is a way to get it back even going...even going to rich individuals who may have been involved in a complicity in some way...then we as a state have a right to get that money back no matter how far we have to go. Remember there are insurance companies involved. Bonds are given for these jobs. Bonds are given. You can't have all this happen accidentally and so recovery of massive amounts of money has to be one of our goals. Whether it is possible or not, we don't know until we get there but that has to be one of the goals, completely distinct from everybody else involved in this investigation. A second one, their main concern is prosecuting guilty. Our other concern has to be a structure of laws that prevent this from occurring in the future with some degree of certainty that the people can rely on. So I am supporting the Lamb amendment and urging us to move ahead immediately on this.

SENATOR CLARK: Senator Lamb, did you wish to close?

SENATOR LAMB: Mr. President and members of the Legislature, I think really the only way to handle it so that everybody that wants to be on the committee could get on the committee we would have a committee of 49 and I don't think that is practical. It just seemed to me the bill that we had in this regard which Senator Hoagland introduced the other day came to the Public Works Committee. I think it is a logical place to have it.

March 8, 1982

LR 237

Nobody is going to be squelched. Everyone that wants to come to testify before the committee, to sit in on the hearings are going to be welcome and I just don't see any other way to handle it without it getting out of hand, getting unwieldy, getting so many people involved that there is no method of logically dealing with the issues. So I would ask that the amendment be adopted.

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

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 31 ayes, 2 nays, Mr. President, on adoption of Senator Lamb's amendment.

SENATOR CLARK: The Lamb amendment is adopted. Next motion.

CLERK: Mr. President, Senator Nichol would move to refer LR 237 to the Executive Board for referral.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman and members of the Legislature, I remember an investigation we had a few years ago involving a lady by the name of Ida Fitzgibbon out at McCook, Nebraska, and some members of this Legislature were interested in it and some weren't and we started out with a nucleus of one committee, but since some of the members weren't very interested and a few members outside the committee were interested, a committee was formed, I don't know if it was formed by the Executive Board at that time or whether it just grew like topsy but it was consisted of people who were really interested, and as a result of that, a pretty good investigation came out of it. I think that the Executive Board could refer this to a nucleus of a committee and add some people such as Senator Chambers who are interested in these kind of things and could come up with a committee of eight or ten members that could adequately handle this proposal. I really think this is sensible, reasonable. I don't think that any one committee as identified by certain members is the magic committee to investigate this so I would suggest that we refer it to the Executive Board who could in turn find out who are interested, which members of this body are interested in looking into this, and perhaps some who are not, and designate a proper committee. I move for the adoption of the amendment.

March 8, 1982

LR 237

SENATOR CLARK: Senator Schmit. Senator Lamb.

SENATOR LAMB: Just one question, I was wondering...now this would not remove the part of the amendment that has to do with the funding, I assume. This I assume, Mr. Clerk, this would not eliminate the part of the amendment that was just adopted which has to do with the Executive Board's overseeing the funding of it?

CLERK: I don't believe it would, Senator, no.

SENATOR LAMB: Okay, well, I guess I could just only repeat what I said before. It seems to me that if we don't stick with our Standing Committee assignments that we have had before, that it is very difficult to get everybody involved. I think we can get everyone involved that is really interested in this issue but we need to keep the authority with one Standing Committee and so I would oppose Senator Nichol's amendment although I would admit that it does have some merit. However, I think the situation we have now with the amendment on there is a rational one and one that will work well.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, I am slightly confused. I think we just voted 30 to 2 or 3, whatever it was, to adopt a specific thing, and as I understand it, even though it doesn't say it, this runs completely counter to that as I interpret it. How can you...what purpose is there to now go to the Exec Board if you have already adopted this because it doesn't repeal what we just adopted? But it has a contradictory policy so I am going to vote against the amendment because I am not even sure how it would work now. As we have got it with the Lamb amendment, I think the resolution and the study are quite functional and I think now we ought to just pass it and get on with our legislative business.

SENATOR CLARK: Senator Hoagland. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, the reason I would support Senator Nichol's motion is that were this resolution referred to the Executive Board, then I think the referral should also include the idea that the Executive Board could appoint the members to the committee. Now we could go on forever on the floor I think discussing the ins and outs of this resolution, and one reason I haven't even talked about any of the merits or demerits of bid rigging investigations as they go on now or the bid rigging issue

March 8, 1982

LR 237

itself is because we are just talking about how to put together a legislative committee to participate in an investigative effort. The Executive Board would be able to handle this resolution. All the Senators who have an interest could talk to the Executive Board and there would not be the necessity of assuming or presuming that anybody does or does not have an interest. Everybody on the Public Works Committee may not have an equal interest or the time that would be required for this type of effort. So I am going to support Senator Nichol's motion to refer this to the Executive Board.

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

SENATOR NICHOL: Mr. President, members of the Legislature, what this amendment would simply do is to take it away from the hands of the Public Works Committee and put it in the hands of the Executive Board. This is the true process of this body, not going contrary to anything. That is where it should have gone in the first place if we are going to have a study, have the Executive Board decide where it goes. That is the usual procedure, not going against a thing. I think the Executive Board members are capable of providing a committee whether it be all members of one committee or some members of a committee and spiking it up with others who are interested in it. I don't think there is a thing wrong with this. I move for the adoption of the amendment.

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

CLERK: 16 ayes, 16 nays, Mr. President, on adoption of Senator Nichol's.

SENATOR CLARK: Motion lost. Next motion.

CLERK: Mr. President, Senator Koch would move to indefinitely postpone LR 237.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman, members of the body, last week the Public Works Committee sat through a briefing by the Attorney General. The Attorney General was very candid. You have that office presently very actively engaged in the whole business of rigging. Besides that there are seventeen states involved in the whole system. Senator Warner alluded to the fact a moment ago that the federal

government is involved with this, very accurately takes it back to at least 1971 and sometimes maybe to further than that. I think for this one committee or any committee in this body to get involved with something that involves interstate activity, where collusion and fraud is involved, I think we are wasting a great deal of time because there is no committee in this body who has the time nor the resources. The Attorney General the other day in his remarks to us said the Legislature sometimes does not give me all the financial resources I need to carry out his activities. He is talking about assistants in his office. So if we want to give the Attorney General what he needs in terms of pursuing this in the best interest of the State of Nebraska and the best interest of the Governor, then I believe that appropriately we should allow the Attorney General to continue and that we should sit here merely as a device in consent if that is needed and the Public Works Committee could provide that possibly. So I believe we waste a great deal of time on a resolution that really does not merit our consideration nor our jurisdiction. It properly belongs with the Attorney General because they have the resources, both human and financial, to carry out the mission. In the best interest of the State of Nebraska, I ask for the indefinite postponement of LR 237.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: Mr. President and colleagues, I would like to rise in opposition to Senator Koch's motion to indefinitely postpone this resolution. I think it is very important for the Legislature beginning as soon as possible to continue to look into this matter. We have already voted on this three or four times now today and I don't know why Senator Koch is bringing it up again. When we had the hearing Wednesday before the Public Works Committee, why we were able to review some rules and regulations which have been developed by the Department of Roads and the Office of the Attorney General which is a vehicle by which the Attorney General's Office hopes to deal with these problems and, frankly, those rules and regulations have a number of difficulties. First of all, there is no apparent authority that I can see in the statutes for the Department of Roads to write and promulgate and adopt those rules and regulations. Secondly, if that authority did exist, the rules and regulations, it seems to me, delegate an awful lot more authority to the Director of the Department of Roads to make deals with the contractors that are involved in this thing than is probably constitutional. Now one concern about the way the rules and regulations are now drafted is it would allow a lot of discretion, as I indicated, and it would

also allow a whole series of agreements to be made with the contractors before the next legislative session, before this Legislature would have an opportunity to look at the issue and examine it. There is no provision in those rules and regulations that would require that those agreements be made public and there is no provisions in those rules and regulations that require restitution. Restitution is only one of a number of considerations that the Director can take into consideration in permitting somebody to be put back on to the bidding list. In short, I think the proposal that the administration now has to deal with these things is probably illegal the way it is drafted and I think that illegal in its unconstitutional delegation of authority and illegal inasmuch as there is not the statutory authority to write those rules and regulations and we have copies of them and we would be happy...I would be happy to make available to any of you if you would like to see those rules and regulations a copy for your examination. So I think that this is a very important matter that the Legislature needs to give attention to. I think it is going to be important we are going to find to pass legislation this year to authorize the Director of the Department of Roads to promulgate just the kind of rules and regulations that are being circulated now and it is going to be important also for the Legislature this year to insist that when those agreements are entered into with the contractors that restitution is sought because the current rules and regulations, in my opinion, don't put enough emphasis on the importance of getting the kind of tax proceeds back into the public coffers as Senator DeCamp mentioned earlier. So I think it would be a mistake for us not to look into this matter. It would be a mistake for us to not do everything we can to see that more information is made public about what has been happening in terms of bid rigging around the state in the last five or six years. And for us to vote this resolution down, particularly after we have debated it as long as we have this morning, would not be in the best interest of the state. Thank you, Mr. President.

SENATOR CLARK: Senator Wesely, the indefinite postponement of the resolution.

SENATOR WESELY: Mr. President, members of the Legislature, I strongly oppose the kill motion. I think from the votes we have had thus far most of you recognize the importance of this study and the need for the Public Works Committee to undertake a comprehensive review of the situation. When you talk about, well, it is not going to do any good and what is going to be accomplished, I would like to call to mind one example that I think is important to keep in mind

and that was about two years ago when we had the big controversy about the Gerald Gentleman Power Plant, remember the overruns that were involved there, the big controversy about what had happened. Well, the Public Works Committee and a special committee including that committee were formed to look at the problem. We spent a lot of time at it. We had several hearings and I think we got a lot of good information. Senator Vickers did a great job working primarily on that subject for the committee. We were then able to last year pass LB 34 that I think tremendously improved the bidding process involved in public power district contracts and I think we have a far better bidding system as a result of that that deals with reasonable bidders and that sort of thing that we were having a problem with at the NPPD plant and that cost ratepayers a lot of money. This is the same situation. We are having a problem with the bidding process in our Roads Department. The Public Works Committee again is involved. The time we are going to spend on it I think is going to be time well spent and out of it we should be able to see legislation similar to what we passed last year that hopefully will improve the system and take care of some of these problems so they won't happen again. We are never totally going to eliminate the problem. I think it is clear, we always have to be vigilant and always provide the oversight they need. Nevertheless, a study like this is important and without it our legislative committee and our Legislature, all of us, would not be able to make the sort of decisions that will improve the situation and prevent the problem in the future. So I think it is absolutely the case that we should study this matter. I think it does not preclude in any way whatsoever what the Attorney General is doing, what the federal government is doing. Those investigations will continue. We are not trying to preempt those. What I see as happening is taking information provided from those investigations, using it in committee to try then to further study the question in terms of statutes, in terms of the law, what we can do to deal with the problem, and we're not doing our own separate investigation, then I don't think we can possibly have that authority or the ability to do that. I see us more following what I think Senator DeCamp is trying to accomplish, making sure every situation is looked into and that we reveal totally the situation and take the appropriate action to make sure that the problem is solved. So I totally oppose the kill motion and would support the resolution.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, I think I have witnessed the two most incredible actions



since I have been in the Legislature. A motion to kill what promises to be the biggest scandal in this state's history and the statement by Senator Koch that was exactly these words. Our business is to "sit here merely as a device of consent if that is needed". Well, fellows, if we are to sit here merely as a device of consent if that is needed, we shouldn't even be in the Legislature, not one of us. I don't know what people are afraid of uncovering in this thing but, boy, it must be dynamite. If this Legislature under the separation of powers theory doesn't have the responsibility to start finding out what has happened to the taxpayers hundreds of millions of dollars the last couple of years, then who in blazes does? And what are we doing here? I urge you to reject the kill motion. You may throw a little sand over this largest scandal in the history of the state but I don't think you are going to be able to cover her up completely so you had better dig in the sand, uncover it all, correct the problems, expose the guilty, and change the laws as needed to make sure she don't happen in the future. One thing you had better not do, just one thing. Don't sit here merely as a device of consent if that is needed.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, on some issues where the federal government is involved I have more confidence than if the state were to deal with that situation. On other matters such as this that impact directly on the state and its citizens, there is a paramount responsibility that the Legislature has. We are supposed to be representatives of the people and their best interest. I am looking at some things that have happened, for example on the North Freeway, and I know some people thought that would be my main interest which it is not, but I have got an issue that I can't get the federal government to give me an answer on. The Department of Roads has promised the phone company, MUD and OPPD that they will pay for the relocation of utilities in connection with that project. Not one of those utilities has ever been paid for relocation of utilities if the project is not a part of the interstate, only when it is a part of the interstate, but the Department of Roads was so anxious to spike any kind of opposition they might have, they made a promise to pay for the relocation of utilities that are not a part of an interstate project. The Federal Highway Administration has asked for more information to justify this. The Justice Department of the United States has asked for more information and neither can apparently get that information from the Department of Roads. If they

have the legal authority to use public money to pay for the relocation of those utilities, let them give the Justice Department and the Federal Highway Administration that legal justification. They have not done it. The Attorney General's Office earlier had said that there was an Attorney General's opinion justifying it. Then when the news media began to look into it, Channel 7 specifically, suddenly no Attorney General's opinion could be found. They don't know...nobody knows for sure why this deal has been made. I have talked to the utility companies, remember I am telling you one of their legal representatives said that they have never been paid for the relocation of utilities if it was not a part of the interstate project. They pay for them themselves. When they are given a right of way there are certain benefits they get and one of the requirements is that should those utilities have to be relocated is that they will pay to relocate them. But when it comes to this particular highway project, not so, and there are other questions that are even more profound than this, more significant because of how broadly they impact on the citizens as a whole that require looking into. I think it would be a gross mistake for the Legislature to kill this resolution. There are already speculations going abroad that there will be an attempt to cover this thing over, protect certain interests, protect certain groups. I have even had it told to me that the announcement the other day by the Kiewit Foundation to give scholarships is designed to spike the public anger and indignation at their being involved in the bid rigging. They are going to smooth that over by offering to give scholarships. Now that may or may not be true but the idea is that the public is very agitated over this bid rigging scandal. The Legislature does have a role to play. The fact that it is a re-election year and we know that people seek campaign funds wherever they find them might cause additional questions to be asked. Were promises made, were threats made to certain individuals to make sure that the Legislature will not get involved in this issue? What I am trying to get across is this, if we of the Legislature want to hold public officials to a high standard of excellence, if we want to say that the judges should operate at a certain level and with a certain degree of integrity, how then are we as the body which has been entrusted with the lawmaking power of the state going to sit here and after a matter has been brought to our...

SENATOR CLARK: You have minute.

SENATOR CHAMBERS: ...attention repeatedly by screaming headlines say that the Legislature has no part to play, will act as though this thing does not exist, and although public

officials and public agencies funded by the Legislature may have a part, if not culpable based on intent to do wrong, maybe negligence or carelessness, we cannot ignore this. So, Senator Koch, I am opposed to your kill motion and I hope it will be voted down.

SENATOR CLARK: Senator Vard Johnson.

SENATOR VARD JOHNSON: Mr. Speaker, members of the body, I rise in opposition of Senator Koch's kill motion. I rise in opposition to his kill motion for a little different reason than I believe has been articulated heretofore and that is this, as Senator Chambers did mention, the public is quite interested in understanding more about the nature of bid rigging, not only in Nebraska but across the nation. In Omaha, at least, the bid rigging story first broke during the expose of Red Munneily's activities on the OPPD Board and those activities tended to dominate the news and the articles on the bid rigging were relatively modest. In fact it was only when I read the third article on bid rigging that I even realized that Missouri Valley Equipment Company in Grand Island was a subsidiary of Peter Kiewit Corporation. It has struck me that the quality of reporting of bid rigging in this state has not been of the kind that I think the public deserves. We do need to know who is involved, to what extent their involvement has been, and what the true costs are to the Nebraska taxpayers by this type of conduct. One of the values in an investigation of bid rigging in our own state by the Public Works Committee is that their activities should be widely reported and that will assure members of the public that they too are participants in a truth seeking procedure. As you may realize all criminal activities or criminal investigative activities done by county attorneys or done by the State Attorney General or done by the United States Attorney are done in offices or before grand juries and those proceedings are not reported proceedings, and as a result, the public is really shut out from any knowledge as to what is transpiring, learning only in the last analysis if someone has plead guilty or no contest to a charge of antitrust activities or big rigging activities or what have you. I don't think that is an adequate colloquy with the public. I believe that the public needs to be as fully informed as it can be on this subject and I think one of the principal functions of a legislative review and oversight process is to ensure as best we can with the tools that we have that the public be made aware of what has transpired, what has gone on and the kind of things that we, as a public body, can do to repair the losses and to assure that this type of activity will certainly not occur in the future. It is for that reason that I do believe that the

March 8, 1982

LR 237

resolution should not be killed but rather should be advanced.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, as I hear the members discuss the resolution, it seems to me there is a variety of concepts of what those words mean. I certainly would concur that the proper review by the Legislature of statutes through the study vehicle that we always have is in order. What I do not think is appropriate is that we are going to be running a duplicative investigation as some talked about of everything that happened in addition to what other agencies are doing. That the Public Works Committee should review when the Attorney General has completed his thing, his investigation, that appropriate legislation may need to be considered or introduced, that I would have no quarrel with. But it seems to me it is somewhat unnecessary to just do the full scale investigation that some of you speak of of the whole operation. I have no concern that the Attorney General is not going to review that or the FBI hasn't or the grand jury hasn't and that there may be legislation needed to be introduced as a result of their work, I certainly think the Public Works Committee would be appropriate to do that but I do have serious reservations as to whether or not it is appropriate to do a whole series of investigations as some of you talk about in light of what you talk about when it is already being done, very competent authorities.

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

CLERK: 26 ayes, 0 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator Koch, do you wish to close?

SENATOR KOCH: Mr. Chairman, members of the body, I understand the role of this legislative body. We are policy makers. We are lawmakers, and if there is a law we should pass that relates to bidding, then we should do that, but this issue we are talking about is a national issue. A federal grand jury is the one that uncovered this. The first uncovering of evidence was in Illinois and Chicago. Now eighteen states are all involved in this and they are going to continue to be involved in this and they have the ability to make the decisions that are necessary, and for certain members to infer in here pressure has been brought to bear on

March 8, 1982

LR 237

me I think that that is premature and not very damn ethical. And for Senator DeCamp to quote me, he better make sure he reads the tape and quotes me correctly. I have a feeling that this is more political in this body than it is in terms of what we want to find. You people have been here longer than I have. If you think collusion and bid rigging is just a new scene, you are naive. Bid rigging has been going on for years. It is only through the federal grand jury it was uncovered to the point where they are willing to prosecute, and for us to waste additional dollars as a Public Works Committee I do not believe would be very meaningful. Let's give the Attorney General the dollars he needs, the assistance he needs so he can carry out the mission. The public now is aware of this issue and I also believe there are some companies that are being maligned on this floor that may not yet have been proven guilty. And particularly for legal counsel, people who know the law, you should never indict someone until they have been properly indicted by the appropriate system of justice. So I am a little bit upset by some of this conversation and the discussed discourse that we have had this morning. I believe that we should get on with the business and that's laws that we have before us. Let the Attorney General pursue diligently the action that has been started at the federal level. I ask for the indefinite postponement of LR 237.

SENATOR CLARK: The question before the House is to indefinitely postpone the resolution. All those in favor vote aye, opposed vote nay. We have 50 students from Millard High School. I think most of them are up in the North balcony. They are just visiting the Legislature today. Their Senators are Steve Wiltala, Jerry Koch and Larry Stoney. Will you stand and be recognized please? It looks like a short count on the 50. Welcome to the Legislature. Record the vote.

CLERK: Mr. President, Senator Cullan requests a record vote. (Record vote read. See page 1041, Legislative Journal.) 9 ayes, 31 nays, Mr. President.

SENATOR CLARK: Motion lost. Senator Marvel, do you want to recess until one-thirty?

SENATOR MARVEL: I so move to recess until one-thirty.

SENATOR CLARK: You heard the motion. All those in favor say aye, opposed. We are recessed until one-thirty and we will take up the resolution at that time.

Edited by:

  
Mary Turner

  
Marilyn Zank

8440

RECESS

March 8, 1982

LR 237, 238  
LB 768

SENATOR CLARK PRESIDING

SENATOR CLARK: Have you all checked in? The Clerk will record.

CLERK: Quorum present, Mr. President.

SENATOR CLARK: Do you want to read something in?

CLERK: Yes, I can, Mr. President, very quickly. Your committee on Appropriations will hold an Executive Session upon adjournment today. That is Appropriations in Room 1003.

Mr. President, Senator Wiitala asks unanimous consent to add his name to LB 768 as co-introducer and Senator Goodrich to LR 238.

SENATOR CLARK: Senator DeCamp, we we are going to take up your resolution now. We are back on the original resolution as nearly as I know. Is that right? All right, read the next motion.

CLERK: Mr. President, the next motion I have is from Senator Haberman. Senator Haberman would move to refer LR 237 to the Government, Military and Veterans Affairs Committee.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the Legislature, I rise to ask that you do this for three reasons. First of all, one member of the Public Works Committee has already tried to kill the bill so you can see where his interest is. Number two, another member of the committee is not returning and we will lose the continuity and the thinking of his on the interim study. Number three, it is a Government issue, not a Public Works issue, and, therefore, I think has been referred to the wrong committee. I think the Military Governmental Affairs Committee should handle the issue. There are a lot of people on the floor, Senator DeCamp, that can take issues like this and study them, read them, discuss them and make a good decision on them, and we will try to make and bend the rules so you can be an ex officio member if you feel real strongly about it. But I would like to ask the body to stop and think for a minute that this is a Government issue, not a Public Works issue, and that you refer it to the Government, Military and Veterans Affairs Committee. Thank you very much, Mr. President.

SENATOR CLARK: Senator Lamb.

SENATOR LAMB: Mr. President and members of the body, one more time I rise in opposition to the motion. I think the Government Committee is not really involved. As is usually the case, there are several committees who could handle the bill but Government I don't think is the logical one. I think we have spent far too much time on this resolution this morning and I would ask merely that this resolution be voted down.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Question.

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

CLERK: Senator Clark voting yes.

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

CLERK: 25 ayes, 2 nays, Mr. President, to cease debate.

SENATOR CLARK: Senator Haberman, do you wish to close? No closing. All those in favor of the Haberman motion vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

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

CLERK: 4 ayes, 21 nays, Mr. President, on the motion to adopt Senator Haberman's amendment.

SENATOR CLARK: The motion lost. The next motion.

CLERK: Mr. President, Senator Chambers would move to amend the resolution. (Read the Chambers amendment as found on page 1045 of the Legislative Journal.)

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, my interest in this matter is very serious. By having to offer an amendment to the resolution to get the opportunity to be a part of the investigating committee, will show how serious I am. I would be a working member, and I think from the way that I have dealt on the floor of the Legislature on issues that



March 8, 1982

LR 237

really aren't as important as this one, you know that I wouldn't be on there just to get a free ride. I do believe there are issues that have to be dealt with on behalf of the Legislature. The only ones who can do the job that needs to be done in behalf of the Legislature are legislators, those who are dedicated to seeing that our role is properly carried out, that our prerogatives are protected. Now there was an incident where a lady named Ida Fitzgibbon was killed out in western Nebraska. There had been an investigation by the local law enforcement agency, the state patrol and the Governor's office had been involved. They arrived at a conclusion which the people in that area could not accept, nor could some dismissed members of the state patrol. A special investigative committee of the Legislature was organized and came up with some findings that resulted in a charge of defamation of character or slander being brought against that committee and its members. The case went to court. The court not only dismissed that charge against the legislative committee but pointed out the great power that the Legislature as a whole has and that an investigative committee has, that it has an obligation and a duty under the Constitution to provide legislative oversight. Committees of this kind can be established. They have the power to subpoena witnesses, to take testimony and do all of the things that are necessary to carry out an investigation pursuant to the legislative function. So there I don't think is any question about the validity of having a committee do what this one is designed to do. To show you how much I will stay on an issue even though it involves people other than myself, we are right now in court as to whether to determine whether Senators can be given expenses during the session. It is on my voucher and some work that I have done in conjunction with the Department of Administrative Services and the Attorney General's office to get our case together that has helped bring us to the point where we are on that issue. It has hung fire for at least as many years as I am old, but maybe it took my coming along to bring the matter to a head. So in the same way that I deal on that particular issue and others, I would do on this bid rigging investigation. So my amendment to the resolution would simply say that I could function as a member of the committee. That also has been done before. As a matter of fact, the Committee on Committees a couple of years ago appointed me and I think Senator Fowler to sit as members of the Banking Committee with the right to vote on the particular issue that we were considering, and we did sit as members of the

committee. We asked questions of those who testified and we wound up voting on the ultimate issue. I realize that a chairman, if he or she chose to do so, could invite a legislator to sit in and even ask questions, but my interest would be in having and exercising all of the prerogatives of a committee member, so I am asking that you adopt this amendment to the resolution. And I should think that if others have the same interest that I have, they would have expressed it in the way that I am doing or some similar fashion. So perhaps there are many Senators who are interested in seeing that a study of this kind or investigation of this kind be undertaken but are not particularly anxious to serve as a member of the committee because they might not have the time or the interest. But I will find the time. I do have the interest and I know that I could bring something to the committee that would be of value in helping it to discharge the obligation being placed on it by this resolution. So I am asking that you adopt this amendment.

SENATOR CLARK: At this time I would like to introduce to you an old friend of mine, Jim Bowhay from the Council of State Government Midwest Conference office. He is the Executive Director in Chicago, and the field man, Jack Brinkley. If you would stand up, gentlemen, and be recognized here. They are going to be over here under the balcony. He is here for two days for a visitation. If you want to know anything about the Council of State Governments, about the Midwest Conference, what it can or will do for the Legislature, please visit with him. He would just love to have your suggestions on it. Thank you. The next speaker we have is Senator Lamb.

SENATOR LAMB: Mr. President and members of the Legislature, again I rise to oppose the motion. I certainly respect Senator Chambers' ability and his deep interest in this subject, but as I have stated before, it is very difficult to structure a committee that will accommodate everybody yet not get it unwieldy. If we should grant Senator Chambers this special privilege, I see that that would only be the beginning. I think it would not be workable in the final analysis.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President and members, I, too, object to the appointment of specific individuals to a different committee than they serve on. I also have great respect

March 8, 1982

LR 237

for Senator Chambers' ability to dig into subjects that perhaps some of the rest of us are afraid to get into. But I think that we are spending an awfully lot of time on something that if we really want to get into it's going to take a lot of work and some funding and also some expertise. I was kind of amused a bit ago when you were going to give this to the Government Committee. I don't know whether we would be capable or not. We haven't been able to get the State Auditor to answer any questions that we asked him, and I suppose that perhaps these contractors might be just as evasive as he is. But anyhow that might be a bit facetious, but I thought you ought to know that. I think that if you want to set up a committee that is going to do this, why do it, but to move people around and...or leave it up to the Exec Board to appoint a committee. Maybe that would be the better way to do it. We started to do that once and then backed out. But to pick and choose is going to be real tough and I am kind of surprised at Senator Chambers. I think it is even against the rules to move people around from one committee to the other between sessions. Thank you.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. Chairman and members of the Legislature, I would hope you would grant permission for Senator Chambers to serve on this committee. At the time we had the Ida Fitzgibbon hearings, which was an interim situation too, and these are looser than when we have hearings when we are in session, and many times people cannot make it to all of the hearings. Now when Senator Chambers was on this, he had expertise, knowledge, that was helpful to us even though we had an attorney or two on the committee with us at that time. Senator Fowler was on that committee and this was why I wanted it returned to the Executive Board so that they could put other additional members on it if they wanted to be. I don't need to tell you that when Senator Chambers is not interested in an issue, he is not interested in an issue, but when he is, he does take an active part and is a great help when he wants to be. So with this, I would hope that we would grant Senator Chambers the opportunity to serve on this committee with the other members of the committee.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, I also wanted to encourage you to vote for Senator Chambers' motion. I know there is such a t'ing

March 8, 1982

LR 237

as having too many attorneys around, but on a question like this I suggest to you that all the help you can get in terms of legal expertise is extremely helpful. We are going to be dealing with statutes having to do with damages, restitution, conflict between federal law and state law, criminal provisions, whether they are felonies or misdemeanors, or whether they are applicable to the situation and I think that Senator Chambers' interest and training and expertise in this area would be very helpful. Thank you.

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

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I don't know anything else that I could say to indicate how serious I am about this, but I will add this final note. If there is a serious intent to have the committee do what the resolution says it should do, what could be wrong with us looking among our numbers and tapping the talents of those individuals who are able to bring something to offer on what is to be accomplished? If the issue were dealing with agriculture, I would not seek to be on a committee of that sort because I don't have the knowledge, unless say there were a vacancy nobody wanted and I was flattered and my ego was massaged and I was told how quickly I could learn new things and adjust. But other than that, that is an area outside of my primary interest. If you start something like this, if you start it, you don't want it to crank along, get to the middle of the stream, break down and become a fiasco. We don't want to start something that may not go completely through. So if you feel that the Public Works Committee is able to do all that needs to be done without help, fine, but I think if you look at the seriousness of the issue and how much is involved, as Senator Beutler has touched on, you will see that all the help that can be granted ought to be accepted. So with that, I will simply remind you of what my motion is. It is to amend the resolution to allow me to serve as a member of that committee. I would not be giving up my membership on the Judiciary Committee or the Government Committee. I would not be made a permanent member of the Public Works Committee. I would not sit with them on any of their interim obligations or responsibilities. The only issue that I would work with them on is this one provided by LR 237, the bid rigging. So I am asking that you vote yes on my amendment. Thank you.

SENATOR CLARK: The question before the House is the adoption of the Chambers motion. All those in favor vote

March 8, 1982

LR 237  
LB 816, 817, 870, 956

aye, opposed vote nay. Have you all voted? Once more, have you all voted? Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, though I am within striking distance, I am too proud to beg. You can record the vote.

SENATOR CLARK: Record the vote.

CLERK: 20 ayes, 12 nays, Mr. President, on adoption of Senator Chambers' amendment.

SENATOR CLARK: The motion fails. We are back on the original amendment. There is nothing else on the amendment. Senator DeCamp.

SENATOR DeCAMP: Let it rip.

SENATOR CLARK: The question before the House is the adoption of the resolution. All those in favor vote aye, opposed vote nay. A record vote has been requested. Senator Clark voting aye.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: (Read the record vote as found on pages 1045 and 1046 of the Legislative Journal.) 33 ayes, 9 nays, Mr. President, on the motion to adopt the resolution.

SENATOR CLARK: The motion carried and the resolution is adopted. We will now go to item #5. Do you have anything to read in, Mr. Clerk? All right, go ahead.

CLERK: Mr. President, Senator DeCamp would like to print amendments to LB 870. Mr. President, Senator DeCamp would like to print amendments to LB 816. (See pages 1042 through 1044 of the Legislative Journal.) And your committee on Government, Military and Veterans Affairs whose Chairman is Senator Kahle instructs me to report LB 956 advanced to General File with committee amendments attached. (See page 1046 of the Journal.) And, Mr. President, your committee on Public Health gives notice of hearing for gubernatorial appointment hearings. (See page 1046 of the Journal.)

SENATOR CLARK: We will now go to item #5 and we will take up LB 817.

CLERK: Mr. President, LB 817 was a bill introduced by

March 11, 1982

LR 231, 233, 234, 237, 238, 239  
LB 571, 687, 817, 841, 852

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: Prayer this morning by Pastor Leland Oswald,  
First Mennonite Church here in Lincoln.

PASTOR LELAND OSWALD: (Prayer offered.)

PRESIDENT: Roll call. Have you all registered your presence?  
Record the presence, Mr. Clerk.

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

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

CLERK: I have no corrections this morning, Mr. President.

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

CLERK: Mr. President, your committee on Enrollment and  
Review respectfully reports we have carefully examined  
LB 817 and recommend that same be placed on Select File with  
E & R amendments; and LB 852 with E & R amendments.

Mr. President, your committee on Miscellaneous Subjects  
whose Chairman is Senator Hefner instructs me to report  
LB 687 advanced to General File with committee amendments  
attached; and LB 841 advanced to General File with committee  
amendments attached.

Mr. President, LR 231, 233, 234, 237, 238, and 239 are ready  
for your signature.

PRESIDENT: While the Legislature is in session and capable  
of doing business, I propose to sign and I do sign LR 231,  
LR 233, LR 234, LR 237, LR 238, and LR 239.

CLERK: Mr. President, Senator Clark would like to print  
amendments to LB 571 in the Legislative Journal.

PRESIDENT: All right, Mr. Clerk. While we are waiting to get  
started I think that we should recognize that Senator Kil-  
garin is going to have...she is really getting old, she is  
going to have a birthday tomorrow, I think all of 24, is  
that right? I think we should all wish her a happy birthday,  
particularly since she is supplying cookies this morning.  
Happy Birthday. Senator Labeledz, we probably ought to con-  
sider whether you want to go with LB 824 on motions.

April 16, 1982

LR 386, 237  
LB 928

SENATOR LAMB: Motion is the adoption of the resolution. Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record.

CLERK: 33 ayes, 0 nays, Mr. President.

SENATOR LAMB: The resolution is adopted.

CLERK: Mr. President, very quickly a couple of items to read into the record. Your Enrolling Clerk presented to the Governor the final bill read on Final Reading today, that is LB 928.

Mr. President, Senator Chambers asks unanimous consent to add his name to LR 237 as co-introducer.

SENATOR LAMB: No objections, so ordered. Senator Rumery. Oh, one second, Senator Rumery. Senator Wiitala, for what purpose do you rise?

SENATOR WIITALA: A point of personal privilege.

SENATOR LAMB: State your point, Senator.

SENATOR WIITALA: Mr. Speaker, I would like to take these few moments on behalf of the entire legislature to thank about 40 blessings as we draw down the last few minutes of this Legislature. They come in the form of Kitty Kearns and her 35 Pages, Sergeant at Arms and their assistants. I would like to say thanks an awful lot for sticking it out with us.

SENATOR LAMB: Thank you. We certainly do appreciate the good work that has been done. Senator Carsten, did you have a . . .

SENATOR CARSTEN: Mr. President and members of the Legislature, as Chairman of the Revenue Committee, I have been asked to bring to you the latest economic situation of the State of Nebraska and possible problems and solutions arising therein and with a couple of minutes and your forgiveness I would like to give that to you now. As a result of many years of experience and expertise in areas relating to the economy of our industry and our country in general, I'm constantly being asked for my opinion of the current economic outlook. As a result I have given this matter some very serious consideration and