

November 4, 1981

LR 3, 4  
LB 8

SENATOR CLARK: The question before the House is the adoption or the rejection of the Wesely-Beutler-Landis amendment. All those in favor vote aye, all those opposed vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted on the Beutler-Wesely-Landis amendment? Record the vote.

CLERK: 5 ayes, 41 nays, Mr. President, on adoption of the amendment.

SENATOR CLARK: Motion lost. An amendment on the desk. He wants to read a couple of things in first.

CLERK: Mr. President, I have a Miscellaneous Subjects report regarding confirmation hearings on gubernatorial appointments.

Mr. President, I have two new resolutions, LR 3 offered by Senator Vickers. (Read. See pages 71 and 72, Legislative Journal.) Pursuant to our rules, Mr. President, that will be laid over. LR 4 offered by Senator Koch. (Read. See page 72, Legislative Journal.) Again, Mr. President, that will be laid over as well.

Mr. President, the next amendment I have on LB 8 is offered by Senator Vickers.

SENATOR CLARK: Senator Vickers. Has that amendment been passed out?

SENATOR VICKERS: Mr. President, and members, the amendment that I offer to LB 8 I would hope that it might be treated with a little more kindness than the two previous amendments. I am not sure that I should even have the nerve to stand up here and offer another one but be assured the amendment that you should have a copy of on your desk does not change the dollar figure in any way, shape or form. It simply indicates that if an agency or a commission or a board or a department because of the reductions, because of the reductions that we are going to impose on them, find it necessary to reduce salaries of any of their employees that that reduction should be across the board. It should be to all of the employees and I will be very honest about it. I think one of the main reasons I put this amendment up for your consideration is because of the fact that I think probably and for all practical purposes what will happen if there are salary reductions and this amendment isn't

November 4, 1981

LR 4, 5  
LB 7

SENATOR CLARK: If not, the question before the House is the adoption of the second half of the divided question. Senator Cullan, did you want to close?

SENATOR CULLAN: Mr. President, Senator DeCamp I think had an approach that may be workable, just the reverse of that, and that would be to enact Section 3 but amend it so that it has an effect...it would be repealed perhaps at the end of next legislative session so that we wouldn't have something we believe is unconstitutional in the books for an unnecessary period of time. So I will work on that for Select File but for the meantime I would urge you to adopt this language which does make some technical corrections in the amendments and then, hopefully, we can retain the \$1.6 million that we would lose if we took Senator Schmit's proposal so I would urge you to adopt the amendment.

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

CLERK: 25 ayes, 14 nays, Mr. President, on adoption of the second committee amendment.

SENATOR CLARK: The motion carried. It is passed. The Clerk wants to read some things in.

CLERK: Mr. President, your committee on Judiciary gives a report regarding confirmation hearing held. (See page 79 of the Legislative Journal.)

Mr. President, Senator Schmit would like to print amendments to LB 7. (See page 80 of the Legislative Journal.)

Mr. President, Senator DeCamp would like to print an amendment to LR 4. (See page 80 of the Legislative Journal.)

Mr. President, Senator Haberman offers explanation of vote.

Mr. President, a new resolution. (Read LR 5 as found on pages 80-81 of the Legislative Journal.) Pursuant to our rules, Mr. President, that will be laid over.

SENATOR CLARK: Next amendment.

CLERK: Mr. President, Senator Chambers now moves to amend the bill. (Read Chambers amendment as found on page 81 of the Legislative Journal.)

SENATOR CLARK: Senator Chambers.

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

SENATOR CLARK: We are not adjourned. We will go to item #6, resolutions. LR 4 first.

CLERK: Mr. President, LR 4 offered by Senator Koch. It is found on page 72 of the Legislative Journal. (Read.)

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman, members of the body, first I want to express my appreciation to those of you who saw fit not to adjourn. I am sure that most of us are familiar with the resolution. It has received much fanfare and probably far more than it deserves. I would remind you that there are those parents who today feel that their children should be educated in an environment which they deem to be most fitting and those parents are individuals who refer themselves as Fundamentalists or Evangelicals or Christians. It is a mixture of various people who have sincere religious beliefs and convictions. The thing that is bothering me and I have been in this issue for quite some time, going back to the first year I was a member of this body in 1975. Senator Kremer on one occasion brought legislation before the Education Committee, Senator Rumery on another occasion and others. The law that today enforces certification and mandatory attendance to schools has been on the books for a hundred years and I am not trying to deny the fact that as legislators we have a compelling interest as it relates to the children of this state. Primarily our interest is that they attend an educational institution up to a certain age. The thing that has bothered me as I have attempted to resolve the issue, but most of all wrestled with my own conscience because a few years ago as an educator and still an educator and I am proud of that fact, I felt that all schools should live within the law and there should be no exceptions and no changes. The law has not been enforced with equity and I think all of you in here believe that once a law is established that there should be an equal force applied to everyone, not any exceptions and the schools we are talking about today number approximately twenty-two in this state and a few are being held in basements of homes. And we have, as policymakers, I think we have an obligation to review the law and the Education Committee is attempting to do that. What I am asking you to do is endorse this resolution which is a very mild resolution and what it merely says in very simple terms is that the Legislature would request of the law enforcement officials that they would temper their actions until this body meets officially in January to try to resolve the issue. The gentlemen who

have been visiting with you and myself, sometimes we may disagree with them but we have to admire their persistence and their sincere desire to try to bring about a change. Some people in my profession do not agree with the position that I am presently trying to submit to you but I submit to you that the public sector is not going to... we are not going to diminish the public sector in terms of the qualifications that we have set for them, their standards and their certification. I believe in the right of a parent who acts in the best interest of their children even though I may disagree with what I think that best interest might be. But I would hope that this body this morning would resist a circus and I would hope that you would demonstrate beyond any doubt that you are not going to play politics with children and those who minister in the name of God and who administer Christian Schools. To me this is very serious and I would hope that our integrity is exemplified today by our actions and if you as individuals want to add lengthy amendments and want to change this resolution, I have committed myself to the gentleman outside that I will withdraw LR 4. So I would hope that we would merely deal with the simple statement. We are asking law enforcement officials to temper their actions until this body can act in good faith and revise the law if you deem it necessary in January. That is what LR 4 is all about and nothing more. We cannot by this resolution cause law enforcement officials, county attorneys and county superintendents and others from proceeding with enforcing the law but my last request to you before I finish these remarks is, is the law being applied with equity today and it is not. It has only been applied on one occasion and finally I would remind you as well that there are other groups of people who have religious beliefs such as the Amish and such as the Mennonites who appeared before our committee the other day in eight and a half hours of hearings who felt there had to be some revision of the present law because of their deep conviction as it relates to education and religion. Therefore, I request sincerely that we deal with the resolution as it is and reject any amendments and either vote it up or down. At least we will show good faith to the men who minister in the name of God. Thank you.

SENATOR CLARK: Amendments to the resolution.

CLERK: Mr. President, the first amendment I have is from Senator DeCamp. It is found on page 80 of the Legislative Journal.

SENATOR CLARK: Senator DeCamp.



SENATOR DeCAMP: Mr. President, I ask unanimous consent to withdraw that amendment in accord with the spirit Senator Koch suggested.

SENATOR CLARK: It is withdrawn. Any other amendments?

CLERK: Yes, sir. Mr. President, Senator Beutler had an amendment to the DeCamp. I assume that is no longer applicable. Mr. President, the next amendment I have is from Senators Cullan, Hoagland and Landis.

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: That is offered as an amendment to the DeCamp amendment?

SENATOR CLARK: No.

SENATOR CULLAN: Oh, it is an amendment to the bill. Senator Hoagland I think would initiate the...

SENATOR HOAGLAND: Mr. President and colleagues, let me just begin the opening statements, the opening remarks by Senators Landis, Cullan and myself briefly and then I will turn it over to the two of them because I think each of us want to deal with slightly different aspects of this. Now we have just passed out our amendment to the resolution which as you read it you will see is a complete substitute and the thrust of our resolution is exactly the opposite of the thrust of Senator Koch's resolution and that is that the laws of the State of Nebraska should be enforced evenhandedly and without discrimination in favor of or against any particular group of persons in the State of Nebraska based on race, religion or any other consideration. Now let me just give a few remarks in support of my feelings about why we should adopt this approach rather than Senator Koch's approach towards the enforcement of the laws of the State of Nebraska. Now I can appreciate Senator Koch's concern about accommodating these people who have been out in the lobby now since last Friday, as long as we have been in session and I think if you read Senator Koch's resolution the first impression you might have is, well it is harmless enough. It really doesn't say very much but I think on the contrary it is a very dangerous resolution and Senator Cullan I know is going to address the problems that are inherent in asking judges and law enforcement officers around the state not to enforce the laws of the State of Nebraska in selected instances. I think that sets a very bad precedent and he will elaborate on that. What concerns me particularly is the message that this resolution is going to send out across the State of Nebraska and perhaps across

the entire country because I think the message is going to be conveyed by radio stations and television stations and newspapers stationed throughout this state is that the Nebraska Legislature, a lawmaking body, passed a resolution suggesting that the laws not be enforced in a particular area and I really ask you, colleagues, is that appropriate? Is it appropriate for us as lawmakers to go around passing resolutions suggesting in selected instances that the laws not be enforced? I think that it is not. And I think that when the message is conveyed, if this resolution passes, when it goes out across the state, why it is going to be viewed as a victory for this minority, this minority of people who would come in and ask us to turn around, completely change state policy that has been in effect for at least fifteen years, for a temporary relatively flash in the pan, here today, gone tomorrow group of individuals who I will wager we won't even hear from or won't even know of two years from now and what concerns me particularly is indeed, is Reverend Falwell from Lynchburg, Virginia, going to come back to Nebraska with his camera crew, is going to again put his own lock on that church door and show himself taking that lock off the door of the church. And is he then, on his Sunday morning broadcast nationwide, going to say that we moral majoritarians around the country showed that provincial Nebraska Legislature that we have a special knowledge and a special understanding, not only about morality but about how children in Nebraska should be educated and we have convinced the Nebraska Legislature to turn around on this issue and we once again have prevailed in this sort of issue around the country. Now I am really concerned that that is the kind of message we are going to be sending out and that is what we are going to hear if Senator Koch's resolution passes and that is exactly the wrong message for a legislative body to be sending out in this state and nationwide. Now the message that we convey in our resolution, I think, and I hope you will take the time to read it, is exactly the right message and Senator Landis and Senator Cullan are going to address what that message says. And I think that until the laws of the State of Nebraska are amended according to duly appropriate procedures, it is a mistake for us to pass a resolution asking that they not be enforced. Now, finally, because I want to leave some time for my colleague, cosponsors to talk on this issue, yesterday I handed out a poll which all of you ought to have and I have a couple of extra copies in case you don't and I know that this poll which indicates that by a margin of more than two to one the people in Omaha think that current law ought to be enforced and that there should be no exceptions made clearly represents the sentiments of people

in my legislative district. The people I have talked to don't want the Legislature to bend to these kinds of temporary winds that come howling through the State Capitol halls occasionally. And believe me, colleagues, I don't think the people in your legislative district would approve of this resolution either. So with that, Mr. President, let me concede the rest of my time to Senator Cullan and then Senator Landis. Thank you.

SENATOR CLARK: I will show you the list that I've got up here. I've got Haberman, Cullan, DeCamp, Beutler, Howard Peterson, Rumery, Hefner and Landis. All right Senator Cullan can take the rest of his time.

SENATOR CULLAN: Mr. President, members of the Legislature, let me say before I begin to address this particular amendment that I believe very strongly in the type of education that these children do receive in some of these schools. I have a school in Chadron, a Christian school in Chadron that I think is in many, many respects superior probably to the public schools and many of the other parochial schools in that area. I think is an excellent educational program. And perhaps when the Legislature convenes we will support a change in the state law that will allow the school systems to function more readily. But the point I want to make is the actual...I ask us to take an actual look at the resolution which Senator Koch has placed before us and Senator Koch said that he wants us to urge the law enforcement officers of the State of Nebraska to "temper their actions." What Senator Koch is really telling us, Senator Schmit, and other members of the Legislature, is that he wants us to have the judicial branch of this government wink at the law that we have enacted in the State of Nebraska and that, I think, is a very serious message for the Legislature to be sending out on this issue or any issue and we may very well change the law in the next session of the Legislature but the law in force today is the law that should be applied. It is not our function to tell the judicial branch what to enforce and what not to enforce. For three days my friend and colleague, Senator Schmit, has fought changes in child support programs. He has argued in very plain English that we need not change the law in that area. All that we want is for the law that we already enacted to be enforced and I think Senator Schmit is correct. If our law were enforced we wouldn't have child support problems nearly to the extent that we have them today. All our amendment is saying is that we want the law enforced in an evenhanded fashion without regard to wealth, privilege, class, race, religion or any other special classification. It is very wrong of us to urge the law enforcement people in the State of Nebraska as Senator Koch has said to temper

their actions. They should enforce the law, period, and it would be very unwise of us to argue that our laws should be enforced and followed because they are on the books and we mean for them to be enforced and then turn around and say, "We mean for them to be enforced but we would like you to wink at this one." How are they going to know which ones we are serious about and which ones we simply want to be enforced in a tempered fashion. I urge you to adopt this amendment and I would yield to Senator Landis.

SENATOR CLARK: Senator Landis, you have two minutes. Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, I would like to first of all say that my comments and the reason I am making them is, I want to wait until January and change the statute but to show what we are doing here I would like to quote you a poem. "I watched them tearing a building down, a gang of men in my old home town, with an yeo heave ho and a lusty yell, they swung a beam and a sidewall fell; I asked a foreman, 'are these men skilled, the same men you would hire if you were going to build?' He laughed and said, 'No, indeed, common labor is all I need. I can easily wreck in a day or two what has taken builders a year to do,' and I thought to myself as I went my way, 'Which of these roles have I tried to play? Am I a builder who works with care, measuring life by the rule and square? Am I shaping my deeds to a well made plan, patiently doing the best I can? Or am I a wrecker who walks the town, content with the labor of tearing down?'" Now if we pass this resolution we are going to tear down the law enforcement, the statutes and everything that this state has stood on. We are going to say, "Don't enforce the law." Now they are saying to us, "The law is not enforced equitably." Well neither is it on drunken driving. In some cases they reduce it from five down to two and some they reduce it from two to reckless driving. It is not being enforced equitable or equal.

SENATOR CLARK: Senator Haberman, what are you on?

SENATOR HABERMAN: I am addressing...I am showing, Senator Clark, that the issue is...

SENATOR CLARK: We are on the amendment now.

SENATOR HABERMAN: Alright, that is fine. That is fine.

SENATOR CLARK: It doesn't say what you said. That is why I couldn't follow you on it. This is revert back and enforce the laws.

November 6, 1981

LR 4

SENATOR HABERMAN: I am trying to show by comparison, Senator Clark...

SENATOR CLARK: As long as you are on the amendment that is all I care about.

SENATOR HABERMAN: Okay, I am on the amendment and I was doing fine, I thought. If you are having trouble following me I will start reading my poem again. Would you like to have me do that? No?

SENATOR CLARK: Thank you.

SENATOR HABERMAN: I am in support of the amendment. Let's enforce the law. Let's meet in January, introduce a new bill if you want to and change the law but let's don't start now by bending the law and changing the law. Let's see that it is enforced. So I endorse the amendment to the resolution. Thank you, Mr. President.

SENATOR CLARK: Senator DeCamp. Do you mean that? Well the motion before the House is the adjournment. All those in favor of adjourning vote aye. All those opposed vote nay. Until tomorrow morning at eight o'clock. All those in favor vote aye. All those opposed vote nay. This only takes a simple majority.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? We are voting on adjournment for those that have just come in. Once more, have you all voted? Record the vote. Senator DeCamp.

SENATOR DeCAMP: Mr. President, I would like a Call of the House and whatever.

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

CLERK: 12 ayes, 8 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All senators will return to their seats and check in please. The Call is raised. The Clerk will report the vote on the adjournment.

CLERK: 12 ayes, 16 nays on the motion to adjourn, Mr. President.

SENATOR CLARK: We are not adjourned. The next speaker is Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, I am not sure if I want to support the amendment or simply vote against the resolution in its original form. I guess I would simply vote against the resolution in its original form if I thought it would be voted down. But because I am not sure of that I am standing up here to support the amendment at this time and I am simply afraid of the precedent that we would be setting and I would ask you just to think for a moment about two analogies. There is a minority in this state, a very conscientious minority, a minority who feels mostly, many of them for religious reasons that the death penalty in this state is an immoral act of law. And two years ago in this Legislature they convinced twenty-five of us that it was poor public policy and the Governor vetoed that bill. Last year that bill was reintroduced and this session I believe it is being studied again and the vote on that next session will be very close again. Now what are you going to tell Senator Chambers when he comes in here with a resolution and says, "Gentlemen, there is a conscientious minority out there who feel strongly that the death penalty is wrong. We have acted upon it and this body before in the past has actually reversed itself and abolished the death penalty. Next session the vote will be close again. Here I am before you to today with this resolution suggesting clearly that the death penalty not be enforced in this state until the Legislature has acted again." What are you going to say to Senator Chambers? I don't think you are going to have a good answer for him if you pass this resolution today. Let's take a second example. Motor vehicle inspection law. Nobody has suggested that the motor vehicle inspection law should not be enforced and yet, we took action last year to abolish it as of, I believe, July 1st of next year. What if somebody comes in with a resolution and says, "Let's not enforce the motor vehicle inspection law." Well that would probably make more sense than what we are doing today since we have already abolished it at a date certain in the future. These are just two examples. Every year, every year I have been here we have had a handful of emotional issues, a handful of close policy questions which we may very well reverse ourselves on at some point in the future but I don't think that we can come in here and suggest that any law should not be enforced. It is one thing to undermine authority in a system of law by blinking at the actions of citizens but it is an entirely different thing and a much more pernicious thing to suggest that those instruments of government who have been elected and identified as the enforcers of the law to suggest to them directly that they should not enforce the law, to encourage government itself not to enforce the law, I think that is a step that government should never take and certainly the body that makes the laws should never take. I agree with Senator Cullan that the law in force should be the

law enforced. Thank you.

SENATOR CLARK: Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman, I would rise to oppose the amendment. I would remind the members of this body that we constantly disobey the law. One of the things that we, as senators, have done is to say that the law will not be enforced as far as us being arrested during the legislative session. So I think we need to recognize we, of all people, break the law and I would just say that all that this resolution is going to do is to ask us to postpone to give time to introduce the kind of legislation that will solve this particular problem. I remind you of what Vard Johnson said last night, as far as Martin Luther was concerned. He said, "We are all priests and, therefore, we all interpret the Bible in view of what we each think." I think we need to recognize that there are many in good conscience who interpret the Bible in the manner that the people who were out in the rotunda do and I would just plead with this Legislature that they give us a chance to present to this legislative body the kind of a law that will fit for all people in this state.

SENATOR CLARK: Senator Hefner. We are taking this walking time off your speaking time.

SENATOR HEFNER: Mr. President and members of the body, I am sorry I am a little late here. I thought there were several other speakers before me but I support this amendment I guess and then I think we ought to amend the present resolution with this amendment and then defeat it because I do not think it is necessary to have this. I have nothing against Christian schools but I think they are going at it the wrong way. I think that if they cannot be in compliance with the law, why then they should come to the Legislature and ask us to change it and I think that this body will do this. I have a Christian school operating in my legislative district and I met with the people and I explained my position and I says, "I think that come this next legislative session, this body will change the law." At the present time I haven't had a time to study the results of the hearing that was held last week. I understand that it was a very informative hearing and that most of us will gain quite a little from studying the transcript of this particular hearing. I think that we will set a precedent in this Legislature if we pass this resolution as it was originally presented to us. We cannot condone people breaking the laws in Nebraska and we cannot take that authority away from our law enforcement officers or our judiciary department. Therefore, I would strongly urge you to support this amendment.

SENATOR CLARK: Senator Cope and then Senator Koch.

SENATOR COPE: Mr. President, members, I'm not going to go over the different reasons. They have been well put for supporting this amendment. I support it. The precedent that we would be setting I think is almost unbelievable and I don't think this body, as lawmakers, can afford to do that.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman, members of the body, if we pass this amendment to LR 4, certainly I do not wish my name to be a part of that resolution and I will tell you why. Because if we apply this law with all the strength and the artillery of the state to all the schools who refer to themselves as Christian schools, you are going to have a rotunda full of people like you have never seen. The polls are great but they are like willow trees. You call a person and ask them a question and you are going to get a yes or no. They don't fully understand the implications of the total legislation or the issue. And those who live by polls, I think, are often misled. I had an opportunity to speak to a group of people not very long at an evening meeting and one of the issues was Christian education, trying to understand it. A lady from the League of Women Voters came up to me afterwards and said, "Senator Koch, when I came here this evening I was convinced the law should be as it is." She said, "Now, I believe there should be some change made to allow parents the right to send their child to an educational institution that they deem to be the best place." If this resolution is amended, is passed, I want to sit back and watch the various county attorneys and the county superintendents carry out their obligations with equal force. I doubt that they will. Several have mentioned that law, what we are doing here is we are saying, "don't enforce the law." But I submit to you I would bet there are hundreds of laws in our statutes that are not being enforced, seldom enforced and yet this Legislature in its wisdom in the past has said, "It shall be enforced." The most recent one I can remember is the county assessors. We have agonized over that bit for a long time. Two years ago we passed a law which said, "The county assessor shall relook at the values in their counties every two years," and the first time it should have been done was last year. Yet we know it wasn't done. It wasn't done at all and that is a very serious question when you look at equity, yet the Constitution is very implicit when it says that "all property shall be evaluated with equity, internally and externally and proportionately." We have had laws about minors not purchasing tobacco. I see this happen all the time. We don't enforce that law.



Someone said the laws shouldn't be made...there should be no exceptions for minorities. Somewhere in my history lesson I learned the laws have usually been made to protect the minorities, to offer them some protection. One last plea and then I am going to sit down. I would hope that you would not adopt this amendment and if you choose not to accept LR 4, so be it, but I came here probably as an innocent legislator trying to arrive at some kind of a compromise for a grace period and obviously innocence doesn't get you too far. So, ladies and gentlemen and Mr. Chairman, I ask you not to adopt this amendment and vote on LR 4 as it is, up or down, and then the people who believe in these Christian schools will have a credible message from us. That is all we should give them, yes or no, and no other amendments. Thank you.

SENATOR CLARK: The Chair recognizes Senator Higgins.

SENATOR HIGGINS: Mr. Speaker, Senators, we are speaking now to the Cullan amendment?

SENATOR CLARK: We are speaking to the Hoagland amendment.

SENATOR HIGGINS: I really had my light on to speak to the resolution.

SENATOR CLARK: Alright. Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. I am hopeful that I can speak to both because I don't want to turn on my light again for the resolution. I totally agree with Sam Cullan and Peter Hoagland and Landis on what they are saying our authorities should do but I think what we are doing here is telling them that they have not been enforcing the law as enacted by the Legislature of the State of Nebraska. I don't think this amendment is necessary because we expect, and I'm sure the people of the State of Nebraska expect, the law enforcement agencies of the state to enforce all the laws regardless as they say, of well privileged class, race, religion or any other special classifications. As to the resolution that Senator Koch introduced, nowhere in the resolution do I see where we are asking them to violate or not enact the laws. We are just telling them that they should consider that the Legislature intends to address and resolve the conflict. In no place in any section do they say that we should violate the law. It just gives the intent of the Legislature and we have done that on numerous occasions when we are enacting legislation giving then at that time, the intent of the Legislature. But I certainly can't see anywhere in the resolution where we are asking the law enforcement agencies to violate the laws of the State of Nebraska other than to consider and I would like to ask anyone of the attorneys, Senator Landis,

is there anything in this resolution as introduced by Senator Koch that we are asking the law enforcement agencies to violate the laws or not carry out their duties to enforce the law?

SENATOR LANDIS: The language of the resolution is not framed in a way that requires them or specifically asks them to do it. The introducers and the people in the lobby state to me when in discussion, that the purpose is to send a signal to law enforcement officials, however, and it is a veiled message but I think it is there.

SENATOR LABEDZ: Well whether you call it veiled or not, it still says that they should take into consideration the Legislature's intent next year as to what we are going to do. It doesn't say what we are going to do. We may still go ahead with the law as it is today and not make any changes. It says that we intend to enact legislation and that they should take that into consideration but in no way, that I can see, does Senator Koch's resolution ask them not to enforce the law as it is today. Thank you very much.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I would just like to correct one statement that Senator Labedz just made. The resolution as originally introduced does not say the Legislature intends to enact any legislation. It simply says there is an intention to consider and resolve the conflicts. There is no assurance that the Legislature can resolve any conflict in this matter because the same type of pressure which has brought the Legislature to its knees, where the Legislature finds itself now, will simply be intensified because this encourages people to feel that if they bring enough pressure to bear the Legislature will crumble and based on the activities of the Legislature in the past few days in this special session, they are completely entitled to hold that opinion about pressure causing the Legislature to crumble. But on this particular matter, if Senator Labedz is saying that nothing in this resolution based on its language tells any people connected with law enforcement to not do their duty, then I see no reason not to adopt the amendment because the amendment says in affirmative language that they should do their duty. So, if the affirmative amendment is merely the opposite of the negative coin that the original resolution represents, here is what we come down to whether we state it affirmatively or negatively. There are laws enacted by the Legislature. There are agencies of government charged with the responsibility of enforcing those laws, that as far as the Legislature is concerned, those agencies should do their job based on the responsibilities imposed on them by law, which means that both of these resolu-

tions simply say that what is, is what is. That is all. Neither one of them say anything based on their language. But if, as Senator Landis has said and the newspapers have indicated, there is a hidden message in Senator Koch's resolution, I think for the sake of the public the resolution should be clarified to say precisely what the intention of the introducers is. If that intention is to tell those who are prosecuting these cases, "don't prosecute them," if it is to tell the sheriff, "don't you carry out the order of the judge," that ought to be stated in the resolution. On the other hand, if, as Senator Labedz implied, that is not what the resolution intends to say, there is no reason to have either one of them. What I am making a plea for is honesty and straightforward dealing by the Legislature. It is kind of ironic that on an issue related to religion where we talk about ethics, honesty, being upstanding, honest and all the rest of it, duplicity is being resorted to. Suppose the Bible itself were written in these types of terms? It says one thing but it means something else. Isn't that what causes all the problems among the various denominations now? Everybody reads the words but they give a different meaning to them, so now the Legislature is engaging in the same type of thing and I believe it is totally wrong. It is ironic again to me that the one, myself that I am referring to, who makes no confessions or professions relative to religion am constantly bewildered and amazed by those who profess religion when they use these kind of tactics. Why should I become like that? I like people to say to me what they mean. I like to say to people what I mean but when we become hazy like religionists seem to become, it seems to me to be a contradiction of all that religion stands for. So personally I see no reason to have either one of the resolutions. Both of them say the same thing in different words. So why don't we either vote down both of them or just adjourn and leave this thing alone? I intend, if pushed to it, to use certain tactics to try and stop a freeway from destroying my community. Now if you are going to say these people in violation of the law should not be touched, then if somebody interprets my conduct as in violation of the law, I ought not be touched either because I am dealing with what I perceive to be the welfare and the very life of my community.

SENATOR CLARK: You have one minute.

SENATOR CHAMBERS: But here is the difference between me and the religionists. Whatever consequences my conduct carries, I am prepared to bear them. I am not going to make grandiose statements and declarations about how my beliefs cause me to do this or that but then when I act on my beliefs, I come whimpering and crying to the ungodly people and say, "lift from me the penalty of the law." I won't do that. I will

take the consequences of my actions. So my recommendation is that neither one of these resolutions be adopted.

SENATOR CLARK: Senator VonMinden.

SENATOR VonMINDEN: Mr. President, members of the body, I rise to oppose this amendment. In the very first part, to say that somebody is uncivilized because they think a little different than my learned colleagues makes me get up here and talk to you. Yesterday when Reverend Siliven called me up to the lobby, the rotunda, to ask me if I would support this resolution, I told him I would but I wouldn't say a word about it. I wouldn't touch it with a ten foot pole. It is something like abortion. You lose friends, you lose respect by talking about it but I wonder sometimes, standing here right now, it is something like an alcoholic when he gets up and stands up and says, "I am an alcoholic." It is getting pretty doggone hard in our programmed society now to be anti-religious and to get up here and say you are a Christian. Several, many years ago my forefathers came to America because they were being prosecuted by religion and I see nothing wrong in this small segment of society of people who believe in Christianity by raising their kids the way they want to be raised. LB 7 which we debated all day yesterday and into the night, we wouldn't have had to had such a bill if we were all Christian like those people. There are no ADC people amongst the minorities who have Christianity. They have values that we don't teach in public schools. They have values where they do unto others as you want done unto you and they also teach marriage and no divorces. So our problem with ADC would be eliminated. With that I am going to close but I think it is high time some of us people start standing up and say we are Christians and we believe in Christianity and we are going to oppose the people who are trying to do away with Christianity. Thank you.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: I call the question.

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

CLERK: Senator Clark voting aye.

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

CLERK: 26 ayes, 7 nays to cease debate, Mr. President.

SENATOR CLARK: Debate has ceased. Senator Hoagland, do you want to close? Senator Landis, alright.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I will close on the amendment to the resolution. First of all I would like to simply state that I hope that I am mistaken in interpreting Senator VonMinden's statement to mean that ADC mothers are not ipso facto Christians. I hope that that was merely a slip of the tongue. If not, I don't share in any way that same philosophy. Secondly, I want to talk about a point made by Senator Peterson that the Legislature somehow are lawbreakers because we have a constitutional principle that allows us the deferral of prosecutions until such time as the Legislature is over. In fact, we follow the law when we follow the Constitution and the Constitution creates an exception for this body. I do that as a matter of historical precedence because in the late 1800s executive officers who controlled county attorneys would arrest legislators so that they could affect the votes at the final times on the floor of the Legislature and that is where that constitutional principle came from. We do not ask the Legislature to not follow the law. In fact, we have a law that allows the deferral of prosecutions but, in fact, prosecutions occur. So it is not that we act on some basis other than on following the law because there is a constitutional principle to justify that. I oppose the Koch amendment and I support our replacement amendment for several reasons. First of all, the Koch amendment violates the separation of powers doctrine of our government and that is a principle that we loudly and bitterly complain against in the event that we feel that legislative prerogatives are being stepped on. What we are doing is coaching or kibitzing county attorneys and law enforcement officials into a selective enforcement pattern and that is a violation of a separation of powers I hope this body will not countenance. This is, in fact, countenancing winking at the law for a grace period of ninety days or a hundred and twenty days until the Legislature can act. We are interjecting the irrelevant consideration of what the Legislature is going to do in January into the prosecutions of people at this time and that is not a valid consideration in the carrying out of a prosecution. Guilt or innocence, the amount of proof, those are relevant considerations that a county attorney should take into account but not whether or not the Legislature is going to act on this particular issue. I am not against the idea of taking action on church and state politics. I will be one of forty people, if there are thirty-nine others who want to have a special session to resolve this by law so that in the event we want to suspend operations we can do that lawfully. We should not do it by the veiled message of LR 4, however. Finally, the message

of this is wrong. The message of this resolution is wrong unless amended by the Cullan, Hoagland and Landis amendment. It says to the county officials and to law enforcement officials, "temper your actions. Stay your hand. The Legislature has the ear of these people and, therefore, do not enforce the laws against them." Political clout and friends on the floor of the Legislature equals impunity from the operation of law and that message should not be countenanced by this body. I am told by those in the lobby that we need this resolution, the Koch resolution, to send this message to county attorneys so they will understand the mood of the times. A county attorney who is not aware of the mood of the times cannot read, doesn't own a television and has been living in a cave for the last eight months. There is no necessity for the recital of facts based on the whereases section of the Koch amendment. I want you to read those side by side and ask yourself which one this Legislature intends to stand by, which one of these is, in fact, a statement from this legislative body and I am going to read to you our substitute amendment because if this is not the sentiment of this body, I want everybody on record saying so. (Read Hoagland, Cullan and Landis amendment as found on page 114 of the Legislative Journal.)

SENATOR CLARK: (You have one minute.)

SENATOR LANDIS: And if that is not the resolve and intent of this body, I want to see some red lights up there telling everybody in this state that you don't believe the things in that resolution. If you don't believe in evenhanded justice, if you don't believe in the operation of the law to every individual equally without regard to wealth, privilege, class or religion, and I call for the vote on the substitute amendment to resolution 4.

SENATOR CLARK: The question before the House is the adoption of the amendment of Senator Cullan, Senator Hoagland and Senator Landis. A record vote is requested. All those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? It takes 25 votes. Have you all voted? A Call of the House has been requested. All those in favor of a Call of the House will vote aye. All those opposed vote nay. Record the vote.

CLERK: 22 ayes, 5 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All senators will take their seats and check in please. Will all senators

sitting in their seats please check in. Senator Higgins, Senator Labedz. Senator VonMinden, will you check in, please. There is six of them excused so they are all here. Do you want to accept call in votes? Call in votes will be accepted. I will ask you once more beings that you are all here, if you want to vote, vote. I don't care how you vote but just vote, otherwise we will call the vote. The Clerk will record the vote.

CLERK: 19 ayes, 13 nays, Mr. President.

SENATOR CLARK: Motion lost. Who? I didn't hear the roll call vote. I'm sorry. We will have a roll call vote. The Clerk will call the roll.

CLERK: (Read roll call vote as found on page 115 of the Legislative Journal.) 21 ayes, 15 nays, Mr. President.

SENATOR CLARK: The motion lost. We are back on the original amendment, bill, do you have another amendment?

CLERK: Mr. President, Senator Koch would move to amend.

SENATOR CLARK: Senator Beutler, for what reason do you rise?

SENATOR BEUTLER: ...(mike not on.) ...adjourn to 8:00 a.m. tomorrow morning.

SENATOR CLARK: Well it is not debatable. The motion is withdrawn. Amendment on the desk.

CLERK: Mr. President, Senator Koch would move to amend LR 4 by adding a new paragraph 3 under the resolved portion to read: "That the Clerk of the Legislature will forward a copy of this resolution to the Attorney General, Commissioner of Education, State Board of Education, all county attorneys and all county superintendents of schools."

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman, members of the body, I think in the best interests of the people outside and the Christian schools, for this body is that we ignore this amendment and I ask unanimous consent to withdraw LR 4.

SENATOR CLARK: Do you want to withdraw the entire resolution?

SENATOR KOCH: The resolution, I'm sorry.

SENATOR CLARK: It is withdrawn. Senator Warner.

SENATOR WARNER: I temporarily object because there has been two record votes made here and the purpose of my vote I want to explain and I am going to object to withdrawal because I thought the last amendment was ridiculous to tell law enforcement to carry out what they are assigned to do, just as I thought it was ridiculous to tell them not to carry out the laws they are provided. I want to make the record clear that when I cast a no vote, that no vote was on the basis of going to vote no on the resolution in total. I also voted to make sure that the resolution came up because I thought it was necessary to address the issue and my position is clear. I withdraw my objection.

SENATOR CLARK: It is withdrawn. The next resolution. Senator Nichol.

SENATOR NICHOL: Now, Mr. Chairman, members of the Legislature, we are all going to have some explaining to do if this thing is withdrawn now. Senator Chambers remarked a little while ago, we shouldn't have to be saying...

SENATOR CLARK: Well, Senator Nichol, no one objected except Senator Warner which he withdrew.

SENATOR NICHOL: Okay, then I object too so I can get it in the record why I am objecting.

SENATOR CLARK: You have a right to do that.

SENATOR NICHOL: Alright, I think we should vote on this. Now these people have come in good faith. I may or may not agree with them but when we come to the point where we are going to say, "and this Legislature says..." I don't think we should be enforcing a law because we are getting pressure. Those people have every right in the world to exert pressure. They have every right in the world to change the law and nobody here, I don't think, would say you don't have a right to attempt to change the law. But by the same token we shouldn't have to be coming here in the way of an amendment to a resolution and say, "we passed this law and we mean it." It should go without saying...

SENATOR CLARK: Senator Nichol, there is nothing before the House right now. If you object you can object and then we will go ahead and take a vote and see whether they want to take it up or not.

SENATOR NICHOL: That is right, I am objecting and I want it to come to a vote.



November 6, 1981

LR 4

SENATOR CLARK: Then we will take a vote now to find out if we continue the resolution.

SENATOR NICHOL: Okay, then I can talk on...do I get to talk on....?

SENATOR CLARK: You will when it comes to that.

SENATOR NICHOL: Okay, fine.

SENATOR CLARK: The question before the House is shall we withdraw LB 4. (sic.) All those in favor of it...LR 4. All those in favor vote aye, opposed vote nay. Senator Chambers.

SENATOR CHAMBERS: If it is going to be a motion then that motion is debatable.

SENATOR CLARK: Alright, go ahead. Do you want to debate it?

SENATOR CHAMBERS: Yes.

SENATOR CLARK: Well, let's let Senator Nichol go first then because he was here...

SENATOR CHAMBERS: Sure, I don't mind.

SENATOR NICHOL: Mr. President, to clear the air I will make a motion to that effect.

SENATOR CLARK: Fine. Senator Chambers, do you want to talk on it?

SENATOR CHAMBERS: Mr. Chairman, I am against the withdrawal of this resolution. First of all, too much time has been put in on it, there has been a great deal of publicity and the Legislature is halting between two opinions. Either a majority should go on record in favor of this resolution or we should vote it down so that the issue is cleanly dealt with since it has been brought before us and for your information, I have a motion up there to indefinitely postpone the resolution because I definitely want to be on record one way or the other and I am telling you, when we create a situation which is designed to produce a crisis, we must be prepared to accept the consequences of it. The Church produced a crisis, a Jesus crisis if you will, but nevertheless, it is there. Now I am not opposed to religious people but I am opposed to certain things religious people do and this is one of them. I am not opposed to their trying to influence the Legislature but putting chains on a door in front of cameras, then misrepresenting

to everybody who sees it, who put the chains there? Don't say Satan did, that he gets blamed enough for it. So when one of the minions of God does it, at least let him take the rap for what he has done. That is why people hate Satan. He gets blamed for things he didn't do as well as things that he does do which cause people to have a lot of fun in the world but here is what I want to tell you. There was a minister with the Jimmy Swaggert Ministries and I think that is a Fundamentalist group and he got some treatment at the hands of a Douglas County Deputy Sheriff that I thought was reprehensible and I intervened and helped him get his money back for having his car illegally towed. He probably got an apology because I saw the treatment accorded that man as being wrong. So, I believe all of us are in favor of everybody having the rights they are entitled to regardless of their religion or whatever, except some people don't think that people of my complexion ought to get certain rights. And I think it is kind of interesting that this minister sought me out knowing what my points of view are on religion but since the devil's work was to be dealt with he felt that somebody who has those kind of ties is the one who ought to do it. So, in keeping with that idea of being straightforward, we ought to now take a vote somehow on the resolution and it ought not to be the coward's way of evading the issue by withdrawing the resolution. If you withdraw it, somebody has won. Somebody has put the Legislature in a position of not doing what we ought to do by our vote and what we ought to do is to vote that the law which is in place ought to be enforced. There is one other point I want to make. If you don't want to take a vote on the resolution itself vote on my motion to indefinitely postpone and let me take the heat. I am prepared to take the heat. The one I am supposed to serve is the master of heat. We don't fear the heat, we welcome it. So, let us do it in the fashion that I am suggesting, my motion to indefinitely postpone and that will take care of everything, but before I sit down I have one other comment to make based on something that confused me this morning. Senator VonMinden implied from the way I understood his remarks that if you don't belong to that group that is out in the rotunda, you are not a Christian or something which means that he is not one either. So everybody in this body would have to be a heathen if you don't belong to that group out there. I don't understand that at all. So why don't we keep all of that stuff out of it. Let my motion come up to indefinitely postpone and clean up the situation like that once and for all for this special session. I am opposed to withdrawing the resolution.

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, I respectfully suggest that we are building up emotions on this issue in a form where we cannot resolve them and, therefore, I respectfully request or move that we adjourn until 8:00 a.m. tomorrow morning.

SENATOR CLARK: The question before the House is the adjournment until tomorrow morning, at eight o'clock tomorrow morning. All those in favor vote aye, opposed vote nay. Record the vote.

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

SENATOR CLARK: We are not adjourned. Senator Sieck, did you want to talk on the withdrawal of the bill? Let's all try to keep our remarks on the withdrawal of the bill so we can get something done here.

SENATOR SIECK: Mr. President, members of the body, I am opposed to the withdrawal of the amendment. I voted against the amendment because I thought it was wrong. I am also going to vote against the resolution because I think that is wrong and I feel that we should take a vote on it.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Mr. President, I object to the withdrawal of the resolution for the same reason that Senator Warner gave. I believe we should vote on the resolution and then proceed and I am against the adjournment.

SENATOR CLARK: Senator Dworak.

SENATOR DWORAK: Mr. President and colleagues, I am very strongly in opposition to withdrawing this amendment. It is not fair to people on both sides of this issue to not make a decision, to not bring this forward and not have a vote one way or the other. I think the time has come when a decision needs to be made from this body. The longer we procrastinate, the longer we hold off, we only create additional confusion to the people that are looking to this body as to what the people within this body think. And not only the people directly involved in the issue, but all the people across the State of Nebraska can expect from us the direction that we can give them. I think the time has come right now. I think the maneuvering on the floor, the adjournment maneuvering is designed for one thing and one thing only and that is to continue to put off the inevitable, that it is absolutely wrong not to speak with a clear voice. This issue has been around.

This issue has been articulated. This issue has been studied. This issue has had a hearing in committee. This issue has had ample coverage in the press. There is no reason, there is no reason whatsoever we cannot make a decision on this issue today. We don't have other pressing business. That is not a reason. We are going to be in Lincoln through tomorrow morning. That is not a reason. There is absolutely no reason not to make a decision other than the hesitancy to make the decision and that is not reason enough. I strongly object to the motion to withdraw.

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

CLERK: Senator Clark voting aye.

SENATOR CLARK: Record the vote.

CLERK: 27 ayes, 2 nays to cease debate, Mr. President.

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

SENATOR KOCH: Thank you, Mr. Chairman.

SENATOR CLARK: Debate has ceased.

SENATOR KOCH: For the record and for the members of this body that didn't understand...

SENATOR CLARK: Okay, you are right. Senator Nichol.

SENATOR KOCH: I had my button on.

SENATOR NICHOL: Mr.....

SENATOR CLARK: I am going to rule Senator Koch has a right to close because it was his original motion to withdraw the bill. All you did was object. I am not going to put it up to a vote because I can hear I lost already. (Laughter.) Go ahead, Senator Nichol, with your great dissertation.

SENATOR NICHOL: I can't get my microphone on. Thank you. Mr. Chairman, so there won't be any disappointment I would be glad to give Senator Koch as much time as he needs if he would just give me a minute at the end.

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Thank you, Mr. Speaker, and, Senator Nichol, I appreciate this. I made the motion to withdraw at the

request of the individuals who have a sincere interest in the resolution. They asked me to put it in the form of a motion to withdraw and I am honoring that request and that is the reason that I made that motion.

SENATOR CLARK: All those in favor of withdrawing...do you want to talk yet? Go ahead.

SENATOR NICHOL: Don't I get to talk?

SENATOR CLARK: Yes.

SENATOR NICHOL: Okay, I didn't mean to embarrass you, Mr. Chairman, but just in closing, it seems like government and religion should be going the same direction. We have had it proposed that we are going in opposite directions. Maybe we are but at any rate the amendment that was attached a few minutes ago shouldn't have even come up. We should never have to say, we mean for the laws to be enforced evenhandedly, and we mean that on all laws that we propose here and this is why the resolution is poor and should be voted down. Apparently the laws are not being handled evenhandedly, so if they are not, it will come out in the wash and these people have a right to know how this body stands and how we as individuals stand. That is why I brought the thing back so I propose that we vote on it.

SENATOR CLARK: The motion before the House is to withdraw the amendment. If you vote green you will withdraw. If you vote red you will not withdraw the resolution. All those in favor of withdrawing vote green, all those opposed vote red. Have you all voted? Record the vote.

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

SENATOR CLARK: The resolution is not withdrawn. We have a motion on the desk.

CLERK: Mr. President, Senator Chambers would move to indefinitely postpone LR 4.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I have given my opinions on the matter and I think that the position of the Legislature should take is one of indefinitely postponing this resolution and let the law take its course with the course being open to all those who feel aggrieved

November 6, 1981

LR 4, 5

SENATOR CLARK: Senator Labedz. Senator Dworak. The motion before the House is the indefinite postpone of LR 4. All those in favor vote aye. All those opposed vote nay. It takes 25 votes to kill it.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: (Read record vote as found on page 116 of the Legislative Journal.) 31 ayes, 9 nays, Mr. President, on the motion to indefinitely postpone the resolution.

SENATOR CLARK: The bill is withdrawn, killed, slain and will have a decent burial. The next resolution, please.

CLERK: Mr. President, LR 5 offered by Senator Burrows. LR 5 is found on page 80 of the Journal and reads as follows: (Read LR 5.)

SENATOR CLARK: Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the body, this seems like a rather poor time to be entering a resolution but I am sure if the body can understand the situation that has developed and if I can do a good enough job of explaining it, that the body will overwhelmingly support this resolution. For the '81 cuts the regions have lost \$981 thousand. This is Title 20 funding. Now the situation of funding has not followed the court decree. I think the conflict that has arisen, I have no blame for the Legislature in what has happened, I have no blame for the Governor's office, but the court decree has accelerated the movement out of Beatrice to a point where it is shifting money to state funds because the Title 19 funds have stayed intact that are the primary source of funding for the Beatrice Developmental Center. Now what the bottom line that if more of these people are moved out, the waiting lists are going to grow on the community program and the bottom line is more people are going to be left without services. The federal government actually has engaged in two different games. The court has pushed a movement out of Beatrice while the federal funds have not followed them in the community programs. I hope I can explain that reasonably simple in that term. The money is just not moving over. The regions are not in a position presently to collect the Title 19 funds that are going to Beatrice. The requirements of the regions will have to include probably additional staffing at higher cost to potentially get Title 19 funds. The facilities will have upgraded requirements which will again cost additional funds and any way you spell it for the individuals