

1 years, the courts, not only the Federal courts, but State
2 courts have shown a disinclination to overturn the acts of
3 legislatures. There was a day, of course, when the courts,
4 State and Federal, had no hesitancy about overturning a
5 solemn act of a State legislature or the Congress; and I
6 assume that Nebraska's experience was the same back in those
7 days. I believe the unicameral legislature came in in
8 about 1937.

9 DR. MICENER: Yes.

10 MR. SCANLAN: And that was just about the time
11 the tide turned and the philosophy of judicial self-
12 restraint took over. Therefore, the statistics about
13 whether a higher percentage of statutes were declared
14 unconstitutional prior to 1937 than were after have no
15 particular meaning for me. It doesn't prove the point
16 for which it is asserted, I do not believe.

17 DR. MICENER: I agree with you on that point,
18 but again you are illustrating the thing I mentioned
19 before, that the assertions are made and there are value
20 judgments involved. There is no factual --

21 MR. SCANLAN: In other words, all these points