

February 26, 1979

LB 316

interests. I think that what we have done by establishing for the first time a right to privacy is a very positive, very positive step in this state. I would urge you to reject the Nichol amendment. Thank you.

SPEAKER MARVEL: Senator Hoagland.

SENATOR HOAGLAND: Senators, I have asked that the Johnny Carson case be distributed to each of you on your desks. It is an opinion written by Judge Urbom which deals with this right to privacy issue. I would urge you to read that opinion, particularly the last page, and you will understand why I am so vigorously opposing Senator Nichol's amendment myself. Now the facts of that case were that a particular individual misused Johnny Carson's name in advertisements around the state encouraging people to go to Las Vegas to participate in a weekend there and Johnny Carson sued in Federal District Court here in Nebraska and he said my right to privacy has been violated because people have misused my name in these advertisements. Now on the last page of that opinion, Judge Urbom gives language which indicates that he is entirely sympathetic with the wrong that had been done Johnny Carson in that particular case and he agreed that there should be some remedy for that wrong and he agreed that Johnny Carson was entitled to recover damages in that case but he said in conclusion that he was unable to render the damages he thought he should be able to render because the Nebraska Supreme Court in an opinion in the early 1960's has specifically repudiated the common law right to privacy, and in part Judge Urbom says on page 814, I confess that I have sought to find a way to avoid the result I have reached. Elsewhere, he says, there has been no legislative enactment in Nebraska which confers the right to privacy. Now I think lawyers throughout this state generally agree that Nebraska needs to have a right to privacy. All this does is create a cause of action. All it does is open up the court house door. Now it doesn't mean somebody is automatically going to recover. It doesn't mean judgments are automatically going to render. That is up to the jury and that is up to the judge. All this does is make causes of action available and we really need that in Nebraska. We are one of two states that specifically doesn't have it and one of three states that may not have it. Now Senator Dworak indicated that this is an essential part of the package that we are putting together on LB 316 and that is true. It is an essential part of that package, and if this thing goes, many of the rights that women will have in this state to sue people who make unauthorized disclosure of information