

February 26, 1980

LB 749

SENATOR NICHOL: Okay.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: Mr. President and colleagues, as you know I am not a friend of this particular bill. I think it is a bad idea and I will put an amendment up in a minute to hold it over for further study. But let me explain what these two narrow amendments do. They further limit the application of the bill to make it from my point of view slightly...more desirable than it is as presently written. Now, let me just digress a moment to express why I have such grave concern about this bill. For two centuries now in the United States Anglo-American jurisprudence has developed a whole body of case law that is described and talked about and defined the relationship between a parent and a child, and there is a lot of complicated case law and it applies in many many different kinds of instances. For instance, when a woman wants to give up a child, just having given birth to that child, there are a lot of procedures she has to go through, or if the child welfare office wants to take the children away from a parent who has been neglectful of those children, and there are a lot of procedures the child welfare office has to go through, and there are a lot of protections that the law has over that relationship. Now, one of the fundamental concepts of this bill is to elevate the grandchild-grandparent relationship to equal status with the parent-child relationship for purposes of visitation in a divorce or a separation proceeding. But the bill goes further than that. The bill also elevates the grandparent-grandchild relationship to equal status with the parent-child relationship where one of the parents is deceased. In other words, where there is no issue of the parents not having gotten along with one another, where there is no issue of dissolution of marriage. Now I think it is a serious enough change in the law in a dissolution of marriage proceeding to permit grandparents to come in and claim that their relationship rivals the relationship of the natural parent, and again that turns on its head decades and decades of Nebraska law without very much consideration over whether this is really a good change or not. But when we take it into the deceased area, when we have a couple that is getting along well and either the husband or the wife prematurely dies, and then under this statute that means one of the grandparents can come into court and file action against the surviving spouse to ask the court to require that surviving spouse give visitation. I mean we are creating a whole new set of rights that has never even been considered before in this state and it raises fundamental questions about the relationship between grandparent and grandchild and parent and