

March 12, 1980

LB 694

CLERK: 25 ayes, 1 nay to cease debate.

SPEAKER MARVEL: Debate ceases. Senator Nichol, do you want to close? Senator Wesely. The Chair recognizes Senator Wesely.

SENATOR WESELY: Thank you, Mr. Speaker. Members of the Legislature, once again, although the lawyers have spoken and thus we are going to have probably some difficulty with the amendment, let me assure you that if there are some specific legal problems with the amendment we can take care of them on Select File but I would like to put the onus on the legal community because I think the fundamental principle embodying this amendment is indeed valid and should be attached to this bill. The question about a hearing and discussion to that effect, I don't believe in this instance that that is particularly necessary. I think it is a fundamental given that this is the policy of the state that we would not, as I mentioned in case law, want to see a situation where a lawyer would indeed benefit unfairly from an estate that they had prepared the will for and I believe that that is merely what this amendment would attempt to clarify in statutory language rather than relying merely on case law. My feeling is that this is in addition to case law and does not supersede it, that is to say that what we were discussing with the legal references here that we have case law that deals with this, indeed for those instances where that would be particularly effective and appropriate, I would not expect this amendment to supersede the case law and would indeed just supplement it. That is my intention from proposing this amendment. If there is a question about families and the ability of a family member who happens to be a lawyer to help another family member, I believe that circumstance can be taken care of but on the other hand I know how lawyers like to add to their business and this would certainly, in those instances, provide increased business for them so they perhaps are missing a chance with this amendment. But essentially that is not the goal of this amendment. It is to deal with the specific problem that has occurred in this country, occurred in Illinois, probably has been present in other parts of this country, could happen in Nebraska. I never heard anybody say that under the present case law that there are not circumstances where we could see a situation similar to what we saw on 60 Minutes that evening and I believe that it is only helpful to clarify the situation to try and take the steps we need to prevent that sort of abuse from occurring. This is very significant. I have had a number of senators come up and talk to me about it on the fundamental principle, the question about