

January 14, 1982

LB 138, 231, 233, 622,
664, 722, 825-833

SPEAKER MARVEL PRESIDING

DR. PALMER: Prayer offered.

SPEAKER MARVEL: Roll call. Please record your presence. Record.

CLERK: There is a quorum present, Mr. President.

SPEAKER MARVEL: Do you have anything under item #3?

CLERK: Yes, sir, Mr. President, your committee on Administrative Rules and Regulations gives notice of hearing for Wednesday, January 20.

Mr. President, your committee on Business and Labor gives notice of hearing for January 20, 27 and February 3 and that is signed by Senator Barrett and Senator Johnson.

Mr. President, I have two Attorney General's opinions, one addressed to Senator Labeledz regarding LB 138 and one addressed to Senator Fowler regarding LB 231. (See pages 280-282 of the Legislative Journal.)

Mr. President, Senator DeCamp would like to print amendments to LB 622 or 233. (See pages 282-283 of the Journal.)

Mr. President, I have received two reports from the Middle Republic NRD and the Lower Platte South NRD regarding payment of attorney fees. (See pages 283-284 of the Legislative Journal.)

I will have on file in my office a report I received from the Director of State Engineer Department of Roads pursuant to LB 722.

Mr. President, new bills: (Read by title for the first time LB 825-833 as found on pages 284-286 of the Legislative Journal.)

SPEAKER MARVEL: We are ready for item #5, Final Reading, and the Chair recognizes Senator Vard Johnson.

CLERK: Mr. President, Senator Johnson would move to suspend Rule 6, Section 7(b) to permit the Final Reading of LB 664 today.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I want to thank you for your indulgence with this particular measure. As you know this is the bill that would name the gymnasium for the Nebraska School for the Deaf after Mr. Nick Peterson who is an alumnus of the Nebraska School for

February 23, 1982

LB 969, 825, 838, 859

SENATOR HOAGLAND: That was a fine, and this bill is intended to set up reimbursement procedures so we can get reimbursements in the State of Nebraska.

SENATOR WARNER: But it is two different issues then, right?

SENATOR HOAGLAND: Yes.

SPEAKER MARVEL: The motion is to suspend the rules to introduce the bill. All those in favor of suspending the rules to introduce the bill vote aye, opposed vote no. Need 30 votes. Have you all voted? Have you all voted? Record the vote.

CLERK: Mr. President, Senator Fowler would like a record vote. (Read the record vote as found on page 815 of the Legislative Journal.) 31 ayes, 9 nays, Mr. President, on the motion to suspend the rules and introduce the bill.

SPEAKER MARVEL: The motion is carried. The Clerk has a couple of items to read in.

CLERK: Mr. President, new bill, LB 969, offered by Senators Fowler and Hoagland. (Read title as found on page 816 of the Legislative Journal.)

Mr. President, I have a gubernatorial appointment report from Miscellaneous Subjects to be inserted in the Journal. (See page 816 of the Legislative Journal.)

Mr. President, your committee on Miscellaneous Subjects whose Chairman is Senator Hefner instructs me to report LB 825 advanced to General File, LB 859 advanced to General File and LB 838 General File with committee amendments attached, all signed by Senator Hefner. (See pages 816 and 817 of the Legislative Journal.)

SPEAKER MARVEL: Before we proceed, it is my privilege to introduce in Senator Marsh's District 60 Third and Fourth Grade students from Holmes Elementary School in Lincoln, teachers, Willa Smith and Berdine Heskett. Where are you located? Hold up your hands so we can wish you good morning. We are ready for LB 230.

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LB 697, 825

SPEAKER MARVEL: The motion is advancement of the bill as explained by Senator Lamb. All those in favor of the motion vote aye, opposed vote no. Record the vote.

CLERK: 26 ayes, 0 nays, Mr. President, on the motion to advance the bill.

SPEAKER MARVEL: The motion is carried. The bill is advanced.

CLERK: Mr. President, LB 825 is a bill offered by Senator Beutler. (Read title.) The bill was read on January 14, referred to Miscellaneous Subjects. The bill was advanced to General File. I do have an amendment to the bill offered by Senator Beutler, Mr. President.

SPEAKER MARVEL: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker and members of the Legislature, we have been having a little problem here in Lincoln with our library books. We continue to lose about a \$100,000 worth of them a year, and although I have not done a survey, I understand that it is a problem in many other places in the state. And there are a number of things that need to be done to alleviate the problem, but one thing that some people thought would be helpful and that I think would be helpful would be to provide that the city attorney or the county attorney's office, when they are asked by the library boards to get back these books or to get damages for the books or to prosecute people for not returning the books, that they should be awarded, if they ask for it, attorney's fees and court costs when they win the action. What is happening is that the cases are generally so small that the city attorney and the county attorneys are reluctant to involve themselves in the cases because they simply lose money on the proposition. And so, therefore, we have created a situation where there is no incentive for people to return books because generally speaking the cases are so small they are not prosecuted. Consequently, the situation gets worse and worse. So what this little bill does is simply say that everywhere in the state when the county attorney or the city attorney prosecutes for the return of library books and library materials that the city attorney or county attorney has the right to ask for attorney's fees and court costs, and hopefully that will increase the pressure on people who are abusing the system to get the books back so that other people and other kids can use them. Now the amendment is simply a technical amendment. I failed in the bill to designate where the attorney's fees would go once they were collected, and the amendment simply outlines where

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LB 825

they would go and they would go back to the city or the county depending on who was prosecuting and be credited to the office of the city prosecutor or the county prosecutor. And that is what the amendment does, and I would ask or move for its adoption.

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, there is no mandatory jail time in this bill, Senator Stoney, but I do have some concerns about it. I think if the state is going to impose what to me amounts to a very heavy fine for an overdue library book or any periodical, record, picture, whatever they allow you to check out, if the state is going to intrude into this situation, some standards ought to be set, and I think there ought to be a requirement of when charges will be filed or may be filed so that library patrons have notice, then if a determination is made to file a charge, then prior to the filing of that charge the person to be charged would be notified and the notice would take the form of a demand that the book be returned, or whatever it is, be returned, and should it not be returned within a certain period of time, charges will be filed. If the charges are filed and the person goes to court and is convicted, then attorney fees and court costs will be assessed in addition to the cost levied for having the book overdue. Otherwise, you have an opened situation where if a library board is running low on funds, they could get a prosecution for a 2 cent fine. But I know they have the statement in here about the bylaws and regulations. I don't know what the individual bylaws in all these villages and counties and whatnots would be, but I genuinely think that if you enact a bill like this, you ought to set some standards to determine by state statute when prosecutions can be brought in these circumstances and the type of demand and notice and opportunity to settle the debt that I have suggested. So on this situation, as with Senator Stoney's bill, if it moves, I would offer amendments on Select File but I won't try to hinder its passage or movement now. But I do want to notify the body and Senator Beutler what my concerns are.

SPEAKER MARVEL: The motion is the adoption of the Beutler amendment to 825. All those in favor of that motion vote aye, opposed vote no. Have you all voted? Record the vote.

CLERK: 27 ayes, 0 nays on adoption of the Beutler amendment.

SPEAKER MARVEL: The motion is to advance the bill. Senator Pirsch.

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LB 825

SENATOR PIRSCH: Thank you, Mr. Speaker. I have some of the same concerns Senator Chambers mentioned, and, Senator Beutler, would you yield to a question? How often do the library boards go to court actually over these books? Do you have any idea?

SENATOR BEUTLER: I don't have an idea for Omaha, Senator Pirsch, and I am sorry I don't since you are from Omaha. The situation in Lincoln is absolutely disastrous. In the last year I think there have only been three or four cases that they have taken to the county attorney for prosecution, and that is in the face of a loss of 10,000 books in that same year period.

SENATOR PIRSCH: Now of the loss of 10,000 books, not by one individual but by various individuals, do they have a minimum or a low before they go to court, or take someone to court, or do they just pick out willy-nilly those that they decide to take to court?

SENATOR BEUTLER: No, they try to pick on those who have the most books out. They try to pick on the biggest cases because those are the only ones that the county attorney is interested in dealing with. And their hope is by making an example of two or three people a year that they will get people to return the book, but that is not working obviously since we are up to 10,000 books a year now.

SENATOR PIRSCH: And there, at least to my knowledge, is not much publicity about anybody going to court over books that were not returned. And what kind of notice do they give them now on books before they take them to court?

SENATOR BEUTLER: In Lincoln and I think...and I can't speak for elsewhere but in Lincoln they get at least two notices of overdue books, and I believe they get a third. I can't swear to that, but they get at least two notices, and the books are overdue by months and months and months before they ever take action.

SENATOR PIRSCH: And they are informed that they are going to take it to court before they actually file?

SENATOR BEUTLER: I can't say that I know that they put that in the notice.

SENATOR PIRSCH: Okay, thank you, Senator Beutler. I have some concerns about the notification and I think I would have to have something into this law before I could vote for it. Thank you.

LB 577, 579, 601, 605, 642, 644, 651, 662,
677, 678, 696, 697, 718, 718, 719, 720,
728, 729, 739, 743, 764, 767, 767A, 775,
776, 778, 784, 792, 796, 807, 824, 825,
828, 839, 845, 869, 877, 890, 892, 931,
941, 951, 952, 961, 962

March 9, 1982

SPEAKER MARVEL PRESIDING

REV. MORRIS VENDEN: Prayer offered.

SPEAKER MARVEL: If I could have your attention for a moment before we proceed. The chairmen had a meeting today and it was agreed that we would attempt to control debate as we have not done too well in the last few months and that we would try, for instance, with 652 to have the debate and the vote on advancement after one hour and that we try to have the pros and the cons of these issues so it doesn't take forever to get the point across. This time we're in a position where we either try to limit debate or many of the other issues will simply go down the drain. So the Chair would appreciate, the chairmen would appreciate your cooperation in trying to give people an opportunity on both sides and not spend all day in the discussion. Record.

CLERK: There is a quorum present, Mr. President. Yes, sir, I do have some items to read in. Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and engrossed LB 579 and find the same correctly engrossed; 662 correctly engrossed; 677 correctly engrossed; 718 correctly engrossed; 719 correctly engrossed; 728, 729 correctly engrossed; 764 correctly engrossed and 778 correctly engrossed. (See page 1060 of the Journal.)

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 720 and recommend that same be placed on Select File with amendments; 767 Select File with amendments; 767A Select File; 807 Select File with amendments; 941 Select File; 877 Select File; 577 Select File; 792 Select File; 605 Select File; 931 Select File with amendments; 796 Select File; 845 Select File; 644 Select File; 739 Select File; 696 Select File; 828 Select File; 642 Select File; 678 Select File; 775 Select File; 776 Select File; 951 Select File; 961 Select File; 952 Select File; 784 Select File; 651 Select File; 716 Select File with amendments; 743 Select File; 601 Select File; 869 Select File with amendments; 697 Select File; 825 Select File; 892 Select File; 962 Select File with amendments; 839 Select File and 890 Select File with amendments. Those are all signed by Senator Kilgarin as Chair, Mr. President. (See pages 1057-1059 of the Legislative Journal.)

Mr. President, I have a motion from Senator Labeledz to place LB 824 on General File pursuant to Rule 3, Section 18(b). That will be laid over pursuant to our rules, Mr. President.

SPEAKER MARVEL: Okay, we go to item #4 and we're talking about LB 924 and I would caution you to do your best to get

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LB 869, 825

All those in favor vote aye, opposed vote nay. Have you all voted? Senator Stoney, we are. . .

SENATOR STONEY: Mr. President, how many excused?

PRESIDENT: Seven.

SENATOR STONEY: Nineteen take away seven would be twelve.

PRESIDENT: There are a few around here yet.

SENATOR STONEY: I wonder if John DeCamp has voted yet? Unfortunately he has.

PRESIDENT: Well you want to . . .

SENATOR STONEY: I hate to do it but we have to have a Call of the House.

PRESIDENT: Do you want to move to Call the House? Record what's on the board. We have a motion for a Call of the House. All those in favor of a Call of the House vote aye, opposed vote nay. You'll accept call ins, I presume. Record the vote.

CLERK: 22 ayes, 0 nays to go under Call.

PRESIDENT: The House is under Call. Again the Sergeant at Arms will bring those in that are not here and all of you will please register your presence. We will accept call ins. Senator Stoney said he would accept call ins. We are taking call in votes and the question is the advance of LB 869 to E & R for Engrossment.

CLERK: Senator Carsten voting yes.

PRESIDENT: All right, record the vote.

CLERK: 25 ayes, 8 nays, Mr. President.

PRESIDENT: Motion carries, LB 869 is advanced to E & R for Engrossment. Now, Senator Lamb, do you want to take up one more bill? We had better just hold everybody here. Please don't raise the Call because let's not have this have to happen again. The next bill is LB 825, but, Senator Beutler, correct me, I believe that you said you would pass that one over since there is a motion to indefinitely postpone on it anyway and you don't want to take it up.

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LB 825, 892

SENATOR BEUTLER: I don't mind taking it up but if we are going to quit soon, Senator Haberman would like to take up his non-controversial one and I'd be glad to do that.

PRESIDENT: We'll take up Senator Haberman's bill, LB 892 and that will be the last bill, Senator Lamb. All right Senator Haberman's bill 892. Mr. Clerk.

SENATOR HABERMAN: Mr. President, Senator Lamb, thank you for letting me take this up. It is non-controversial, it simply says that Class III schools can have their meetings on or before the third Monday of each month like all the rest of the schools in the state. A mistake was made when they passed this law a few years ago. This is all it does, is let them have their meetings the same time as other schools and I ask for the advancement of this bill.

PRESIDENT: There is an amendment on the bill before we. . that is the Koch amendment which I understand you will take up. Mr. Clerk, will you read the amendment.

CLERK: Mr. President, it is simply to add the emergency clause to the bill.

PRESIDENT: Senator Koch wishes to add the emergency clause to Senator Haberman. . .

SENATOR HABERMAN: I accept the Koch amendment as a friendly amendment and would like to ask you to vote to add the emergency clause as it does exist.

PRESIDENT: All right, Senator Higgins, did you wish to speak to the Koch amendment?

SENATOR HIGGINS: No sir.

PRESIDENT: Okay, anything further? Motion then is the adoption of the Koch amendment to add the emergency clause to 892. All those in favor vote aye, opposed vote nay. Record the vote.

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of the amendment.

PRESIDENT: Motion carries, the Koch amendment is adopted. Senator Haberman.

SENATOR HABERMAN: I move for the advancement of the bill as adopted.

right, we'll have a roll call vote if you asked for it. I didn't hear it, I'm sorry. The Clerk will call the roll. All senators will be in their seats. For what purpose do you arise, Senator Dworak? All right, for what purpose do you arise?

SENATOR DWORAK: Hasn't the vote been announced?

SENATOR CLARK: No, it was a mistake as far as I am concerned. You can blame it onto me. I didn't hear him ask for a roll call vote. Others must have heard it. It was not announced.

SENATOR DWORAK: Are we going to be able to call for a roll call after votes been announced then in the future?

SENATOR CLARK: No, it was not announced. It was not announced. The vote was not announced. The Clerk will call the roll.

CLERK: (Read roll call vote as found on pages 1859-1860 of the Legislative Journal.) 23 ayes, 23 nays, Mr. President.

SENATOR CLARK: The motion lost. The next amendment.

CLERK: Mr. President, the next amendment I have to the bill is offered by Senator DeCamp. It is on page 1368 of the Legislative Journal.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, I will withdraw that amendment and any others I have.

SENATOR CLARK: The amendment is withdrawn. The next amendment.

CLERK: Mr. President, if I may right before that, I'd like to read some items in.

SENATOR CLARK: All right.

CLERK: Your Enrolling Clerk has presented to the Governor the bills that were read on Final Reading this morning. (Re: LB 378, 378A, 693, 760, and 967.)

An Attorney General's opinion addressed to Senator Chambers regarding LB 825. (See pages 1860-1861 of the Journal.)

Senator Higgins offers explanation of vote and I have two letters from the Governor. (Read. Re: LB 531 and LB 942. See pages 1861-1862 of the Legislative Journal.)

SENATOR CLARK: Mr. Clerk, I've got an announcement here, too. There are cookies and lemonade in the Rotunda to celebrate the Governor's proclamation today of Victim's